cide they do not want any pay raise for anybody, they have that opportunity, too.

What I want to impress upon the Members is the necessity of adopting the continuing resolution. There are three matters which absolutely must be adopted before October 1 or this Government begins to falter. Let us not fall by the weight of our intransigence.

One of those that must be adopted by that date is this continuing resolution. Another is the question of the debt limit. The third is the need for implementing legislation to permit the United States to continue to exercise an influence and protect the rights and interests of the United States in the operation of the Panama Canal.

Unless those three are passed, I think this House has an obligation to the people of the United States to forego the home district work period scheduled for the early part of October and to remain on the job until we have done those three things that are so essential to the orderly continuance of this Government.

So I urge the Members to vote for this rule, and when this continuing resolution comes before us and the Members have worked their will, whatever it may be, to support the continuing resolution. I urge them then to support the extension of the debt limit, and finally to support the implementing legislation that permits the United States to have a continuing hand until the year 2000 in the operation of the Panama Canal. Until those things are done, we give a poor account of ourselves.

I have greater faith in the Members of this House than to believe that we will go home having failed in our duty to the Nation and to the people who sent us here to be their stewards.

Mr. LATTA. Mr. Speaker, I yield myself 2 minutes.

I was not going to take this time until I listened to my good friend from Texas. Let me say that I join with him in urging the House to adopt this rule and adopt it very quickly.

I do not know of a fairer rule that could be reported out by the Rules Committee for all sides than this rule we now have under consideration, because it is a completely open rule on the subject of compensation. Whether you are for or against a pay raise, this is taken care of. There is no use, as we have done many, many times in the past in this House, in wasting valuable time of this House in having a rollcall on a rule that is open to everybody. I think it is high time we stopped wasting time and we get on with the business of the House.

There are two other things that the distinguished majority leader mentioned about the work of this House. We could expedite it as far as the budget is concerned by reducing the budget that was rejected by the House, and we could also take care of that debt limit by taking out the Gephardt amendment that I am sure caused a lot of controversy. We could reduce the amount, and we could pass it very rapidly.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, a member of the staff just informed me that if this rule is adopted today, and I have no objection to the rule, that we may not take up the continuing resolution and consider it today. Is that true?

The SPEAKER. I would respond to the gentleman that the answer is in the affirmative. The continuing resolution will be brought up on Tuesday.

Mr. BAUMAN. On Tuesday?

The SPEAKER. Yes. We will go right into Mr. BINGHAM's resolution and I hope we can complete it today.

Mr. BAUMAN. If the gentleman will yield further, if we are not going to bring up the continuing resolution, then what is all of this talk about the rush to pass all of these things?

Mr. LATTA. Let me say to the gentleman that that is news to me.

Mr. BAUMAN. I think the House ought to at least know what is going on, it seems to me.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Before the Chair recognizes the gentleman from New York (Mr. BINGHAM) I would say I hope the Members appreciate that the House will adjourn at 1 o'clock today, in view of the fact that beginning at 5 o'clock it is a religious holiday for some people and some Members. In order to give them an opportunity to get to their homes, the House will adjourn at 1 o'clock.

□ 1110

EXPORT ADMINISTRATION ACT AMENDMENTS OF 1979

Mr. BINGHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. BINGHAM).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 4034, with Mr. YATES, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, September 18, 1979, the Clerk had read through line 24 on page 49.

Are there further amendments to section 113?

Mr. BINGHAM. Mr. Chairman, I move to strike the last word.

(Mr. BINGHAM asked and was given permission to revise and extend his remarks.)

Mr. BINGHAM. Mr. Chairman, once again I appeal to the Members to be cooperative. It is essential that we finish this bill by 1 o'clock today. Otherwise, we are going to get completely shunted aside next week by the obvious problems that face us. I can assure Members that as manager of the bill I will be as conciliatory as possible in accepting amendments that I may not be too happy with, but that I think we can work out in conference.

I have already worked out one such arrangement with Mr. DORNAN, and I think I can work out such an arrangement with Mr. MILLER. We will have the Dannemeyer amendment which deserves discussion, but in view of the fact that I think the outcome of that amendment is perfectly clear and the gentleman cannot prevail with that amendment, I think that after an initial speech of 5 minutes in favor and an opposing speech by, presumably, Mr. MCKINNEY in opposition, there should be a limitation of time of 10 or 15 minutes in which Members can get permission to revise and extend their remarks and get on the record in opposition to or in favor of that amendment.

There is the amendment to be offered by Mr. PRYOR, with a substitute to be offered by Mr. DORNAN. That may take about a half hour in toto. I think we can finish this, but it will take a maximum of cooperation from the Members. I would urge the Members, please, unless it is absolutely necessary, not to seek record votes. If we can keep the Members on the floor and proceed by voting by division, I think we can conclude.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. DORNAN: Page 49, line 13, insert "(1)" after "(b)".

Page 49, insert the following after line 20: "(2) Any person who is issued a validated license under this act for the export of any good or technology to a controlled country and who, with knowledge that such a good or technology is being used by such controlled country for military or intelligence-gathering purposes willfully fails to report such use to the Secretary of Defense, shall be fined the sum equal to the amount of gross profit accrued from the sale of the item or $100,000, whichever is greater, or imprisoned for not more than 5 years, or both. For purposes of this paragraph, "controlled country" means any Communist country" as defined in section 620(f) of the "Foreign Assistance Act of 1961." Page 49, line 20, strike out the closed quotation marks and final period.

Mr. DORNAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. KINDNESS. Mr. Chairman, reserving the right to object, could we know the subject matter of the amendment before it is agreed to?

Mr. DORNAN. Mr. Chairman, I did

how they feel about the pay raise. Whether they like it or not, they owe it to this country, to the aged and sick and the weak, to the educational programs, to the defense of our Nation, to transportation programs, and so forth, to pass this continuing resolution.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. PEYSER).

(Mr. PEYSER asked and was given permission to revise and extend his remarks.)

[Mr. PEYSER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. MOAKLEY. Mr. Speaker, at this time I yield 10 minutes to the chairman of the Appropriations Committee, the gentleman from Mississippi (Mr. WHITTEN).

(Mr. WHITTEN asked and was given permission to revise and extend his remarks.)

Mr. WHITTEN. Mr. Speaker, inflation is our worst problem and we cannot continue to feed it by automatically increasing salaries and other programs in order to keep up with inflation even though the law requires it. It is like trying to put out a fire with gasoline.

For this reason, I am recommending that the executive pay increases of 12.9 percent that senior Federal officials and Members of Congress would automatically receive be decreased to 5.5 percent. This is less than half the amount senior Federal officials and Members of Congress are entitled to receive because of previous laws and, most importantly, less than half the rate of inflation.

Unfortunately, laws have been enacted in the past which create legal entitlements for some 58 percent of Federal programs. These programs are tied to the rate of inflation—much like many labor contracts. In a time of inflation, this only causes greater problems.

I believe Congress should set an example and therefore I believe the decrease in pay from 12.9 to 5.5 percent is appropriate. If all sectors of our country—government, labor, and industry—would take this step, I believe that over a period of time it would greatly contribute to slowing down and eventually stopping further inflation.

The limitation of 5.5 percent represents a significantly sharp decrease and amounts to only about one-fourth to one-third of the actual rate of inflation during this period. It is hoped that this example will be followed by other parts of the Federal Government, private industry, and State and local government. Unless we slow down, we face disastrous inflation which has wrecked the economy of the other nations

Mr. Speaker, I am going to ask my colleagues, maybe not at the moment, but to please read in House Joint Resolution 404, the continuing resolution, on page 5, the middle paragraph, beginning on line 10, maybe not at the moment, because I shall explain it here.

As all of the Members know, through their good graces and with the retirement of my good friend, the gentleman from Texas, George Mahon, I succeeded as chairman of the Committee on Appropriations.

Realizing the dangerous situation that we faced, I had a study made.

That study shows that 58 and a fraction percent of the laws on the statute books provide for built-in escalation of the programs covered. That is, as the cost of living or inflation proceeds, the amount in the law goes up with it.

Unfortunately, in my opinion, high-level Federal employees are included, as well as retired Members of Congress.

Might I say that my fears for inflation are well founded, because that study shows that since 1967, the dollar has lost 50 percent of its purchasing power. Each day we read where the world is more and more afraid of the dollar.

Members who retired previously have received, because of this escalated clause since 1967, by simple arithmetic, a 94.7 percent increase in his retirement. Compounded, he has received 124.4 percent in increases under that built-in escalator clause.

Now, those Members—and I want the Members to listen to me—it could be said that those Members who have been voting against a 7 percent or 5.5 percent limitation in pay have been voting for a 12.9 percent increase on all these high-level employees in Government, except those on Capitol Hill. This is because in the absence of a general Government-wide restriction the entitlement of 12.9 percent is the only provision governing the actual amount of pay.

On Capitol Hill, because we turned down the legislative bill from which ours and other's pay comes, we will have an entitlement, but no money.

What I am afraid of—and I want the Members to listen to me on this—I am saying to the Members, when the dollar goes down 50 percent since 1967, we are in dangerous times.

On this budget, and we are all for it, balancing means balanced; we cannot pay an easy, cheap dollar back with a hard-to-get dollar. Income and outgo must balance; neither can it go down sharply without affecting the other.

I want to tell my colleagues our committee has recommended and the Members have adopted 11 bills, which in total are below the President's budget, notwithstanding all of these factors.

So we have tried. The first bill we had we recaptured $723 billion that had been appropriated before.

□ 1100

Not only am I afraid of inflation, but I am afraid we will create a disastrous situation by just trying to reduce—we have got to keep income up—so some balance is required.

I realize we cannot cut back too quickly. I say to my good friends on the Budget Committee, and they did a whale of a good job, I say to them, and to you, and to everybody else, we have got to go careful on this thing because we face a balancing situation. If we make the dollar hard to get we cannot pay it back, so we crash. If we do not stop spending we crash. But keep in mind that it is a two-edged sword.

I want the Members to know that this proposition before you is whether the high-level employees and all of the departments get 12.9 percent in cash and you get a right of action, or whether you scale them all back to 5.5.

May I say that one of the national networks called me this morning at 7:15 and wanted 2 minutes of taped statement about what this is about, about this salary raise. I said, well, that is what most people say, a salary raise. Actually it is an effort to hold down a salary increase that is automatic under the law to 5.5 percent in an effort to phase it out.

I want into these other matters. When I got through he said, "I agree with you." That was from one of the national networks. He said, "Do you hope to pass it?" I said I did not know, but I have felt that it would have passed all along if the Membership had understood that we were voting, when we voted "no" on the efforts to cut back, we were voting "yes" on paying the 12.9 to all high-level employees, because it is automatic and the appropriation bills have been passed that provide for it.

I want to tell my colleagues what the facts are. Those are the facts. You could not be a bit more afraid of inflation than I am.

But do not make the mistake here of knowingly voting for a 12.9-percent increase in cash to everybody in government except Capitol Hill. Here again you would have a right of action, but no money.

So I want to just take this time to explain what is involved here, and I would hope instead of amendments being offered to put anybody on the spot, or to take anybody off the spot, I wish we could vote on the provisions in this, yes or no, and if you understand it I think you will vote to support this provision because it will be a step toward repealing or scaling back this built-in escalating clause that is in 58 percent of our laws.

I say we as a Congress are going to have to tangle with that along the line if we are going to level off and save our country.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I think every Member can vote for this resolution. There is no reason for any Member to oppose this rule. It establishes an entirely open rule which permits the House to work its will, whatever it may be, on the subject of legislative and administrative pay scales. With rare exceptions, the same applies to the other subjects involved in the continuing resolution. Surely nobody can quarrel with that. It is a democratic procedure.

I shall not attempt to inflict upon my colleagues any opinion with respect to the question of a pay raise for Members of Congress or for those who have been at equivalent pay grades in the administrative branch of Government. Members may do whatever they wish about that.

But that is the point of this rule. It gives the membership that opportunity. If the Members of the House should de-

not take into consideration the fact that it has been 3 days since we have considered this. The amendment is not that long, and it does involve a slight change, and the Chairman has graciously accepted it. So, I will go ahead and ask the Clerk to read the amendment.

Mr. KINDNESS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. The Clerk will read the amendment.

The Clerk concluded the reading of the amendment.

Mr. DORNAN. Mr. Chairman, in the interest of time and also in an attempt to be conciliatory, because the Chairman has been so gracious in this, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DORNAN. Mr. Chairman, I would like to point out to the Chairman that the amendment I had at the desk until a few minutes ago was the one we agreed on yesterday. However, I want to ask if the gentleman could accept one further change. If not, we will engage in a colloquy on it to put in the language.

Th gentleman originally had in the penalties section of his bill the figure of $100,000. That is added to what we agreed to yesterday. I accepted the word "willfully" and the reduction of sentences for violation of the provision from 10 years to 5 years in the penalty. But we had neglected to see that we had left out at least a minimum fine of $100,000.

In most of the products we are talking about here, the profit is in the millions, so there would never really be a circumstance that I can foresee where it would be even as low as $100,000. But, can the gentleman accept the slight change of putting that figure back into the original bill languge?

Mr. BINGHAM. Mr. Chairman, if the gentleman would yield, that does make a change from what I understood we had agreed to yesterday, but in the interest of time and in the thought that if there are imperfections we can perhaps work them out in conference; I am glad to accept the amendment.

Mr. DORNAN. I thank the Chairman.

Mr. Chairman, in his magnificent speech before the AFL-CIO on June 30, 1975, writer Alexandr Solzhenitsyn recalled the penetrating insight of the father of Soviet communism, Lenin, into the sad behavior of a myopic Capitalist class which has lost the will to defend its own interests. Let me quote Solzhenitsyn's words:

I must say that Lenin foretold the whole process. Lenin, who spent most of his life in the West and not in Russia, always wrote and said that the Western capitalists would do anything to strengthen the economy of the U.S.S.R. They will compete with each other to sell us goods cheaper and sell them quicker, so that the Soviets will buy from another, he said: "Comrades, don't panic, when things go very hard for us, we will give a rope to the bourgeoisie, and the bourgeoisie will hang itself."

Then Karl Radek, who was a very resourceful wit, said: "Valdimir Illyich, but where are we going to get enough rope to hang the whole bourgeoisie?" Lenin effortlessly replied, "they will supply us with it."

I do not like to think of people in terms of class. I do not think that anything more than a small fraction of the business community is as decadent or as myopic as the Communists of the East suggest. But we must face up to a truth that can no longer be ignored.

There are indeed crass interests, whose whole world is defined solely in terms of profit margins and balanced books, who would indeed sell the Soviet Union that technological rope whereby they could hang all of us; that is, incinerate us in a nuclear inferno. If this were not true, if this were only pure fantasy, then we would not need this act at all. We would not even be debating this measure and its amendments.

There would be little need for definitions, controls, rules, regulations, or records pertaining to the export of high level technology. But, of course, we live in a radically different world than that ideal utopia where all businessmen are honest, upright, broadminded, and patriotic. It is not my intention, this evening, to get involved in personalities or to discuss in detail the attitudes and actions of a very few, select companies which I, and most of the American people, find reprehensible, and directly contrary to the security of the Nation. However, we know the problem exists. It cannot be dismissed. It cannot be ignored.

Some weeks ago, Jack Anderson carried a story on the secret testimony of Larry Brady, formerly Acting Director of the Commerce Department's Export Office. It was the talk of the cloakroom on the minority side, and I assume the same on the majority side. Jack Anderson made public what most of us in this House have known all along: The export control systems are in a "shambles," and that the safeguards written into the regulations are "not worth the paper they are written on." that is an Anderson quote. The Soviets now agree to accept end-use statements promising they will not divert hardware for military purposes. Anderson continued in that column, "* * * there is no effective way to make sure that the Soviets live up to their promises. Instead, the Commrece Department relies on the fox to guard the henhouse; onsite inspections are made by representatives of the U.S. companies that sold the products. Not only are these employees often non-Americans, but they have a strong motive for ignoring Soviet violations," explained Brady—

The company wants to sell more . . . and he knows very well that if he reports a diversion to military use, he's not going to be able to sell more.

For the same selfish reasons American company executives are unlikely to squeal on their customers, another Commerce Department official told us, "Us" being Jack Anderson.

Mr. Chairman, enough is enough. The patience of the American people has been tried. We have to put teeth into our laws to prevent the leakage of our hardware to Soviet military use, through violations of Soviet-American trade agreements and diversion.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to my colleague from California.

Mr. LAGOMARSINO. Mr. Chairman, we accept the amendment on the part of the minority with the same observations that the Chairman made, that we want to look at this in conference.

Mr. DORNAN. I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DORNAN).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there additional amendments to section 113? If not, the Clerk will read section 114.

The Clerk read as follows:

CONFIDENTIALITY

SEC. 114. (a) Subsection (c) of section 12 of the Export Administration Act of 1969, as such section is redesignated by section 104 (a) of this Act, is amended—

(1) in the first sentence by striking out "is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information" and inserting in lieu thereof "would reveal the parties to an export or re-export transaction, the type of good or technology being exported or re-exported, or the destination, end use, quantity, value, or price of such good or technology"; and

(2) by striking out the last two sentences and inserting in lieu thereof the following: "Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.".

(b) The amendment made by subsection (a)(1) shall not require the withholding of any type of information which, immediately before the effective date of this Act, is not withheld from disclosure under section 7(c) of the Export Administration Act of 1969.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 114 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: Page 50, line 4, strike out the dash and all that follows through page 51, line 7, and insert in lieu thereof the following: "by striking out the last two sentences and inserting in lieu thereof the following: "Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any

committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.".".

□ 1120

(Mr. DORNAN asked and was given permission to revise and extend his remarks.)

Mr. DORNAN. Mr. Chairman, as reported by the Committee on Foreign Affairs, H.R. 4035 would exempt Commerce Department records in the export control area from public disclosure under the Freedom of Information Act. My amendment would eliminate this unwarranted blanket exemption, which is being urged upon us by the Commerce Department, and allow public scrutiny of the Commerce Department's administration of our Nation's export restrictions.

To this end, my amendment would continue current law, under the Export Administration Act of 1969, as amended in 1977, and as interpreted by the courts. In fact, except for minor changes, the exact language of current law is incorporated into the bill by my amendment.

First, I would adopt the suggestion urged by the Committee on Foreign Affairs to broaden congressional access to export administration records. As some may remember, prior to 1977, the Commerce Department interpreted the confidentiality section of the Export Administration Act to bar disclosure of information from Congress itself. The Congress took action in the Export Administration Act amendments of 1977 to correct the Department of Commerce's creative interpretation of the 1969 act, by providing that "nothing in this act shall be construed as authorizing the withholding of information from Congress * * *" At the time, everyone thought that this language would make the law clear. But the Commerce Department has taken the position, which it takes to this day, that despite the clear legislative history to the contrary, this 1977 amendment applies only prospectively and does not require provision of information to the Congress with respect to license applications pending on the effective date of the 1977 amendment.

Now, in 1979, we must try for the second time to amend a seemingly unambiguous law, with our fingers crossed, hoping that this time the Commerce Department will not devise still another spurious basis on which to deny congressional requests for export information. By providing that disclosures shall relate to all information obtained "at any time under this act or previous acts." I hope the Congress will win the final battle for access to information against a recalcitrant Commerce Department.

It should also be realized that there has been litigation under the Freedom of Information Act in Federal courts by parties seeking access to information acquired under the Export Administration Act. It has now been decided by the U.S. Court of Appeals for the District of Columbia, in the case of *American Jewish Congress* v. *Kreps* (574 F. 2d 624 (D.C. Cir. 1978)), that section 7(c) of the Export Administration Act, as amended, does not completely exempt all export records from the Freedom of Information Act, under exemption 3.

Nonetheless, all eight other exemptions of the Freedom of Information Act would continue to apply such as: Exemption 1, national defense and foreign policy; exemption 4, trade secrets and commercial or financial information; and exemption 5, interagency or intra-agency memorandum or letters. The Commerce Department did not seek a writ of certiorari to obtain U.S. Supreme Court review of this case. This case was properly decided.

To reiterate, under current law, information and records obtained pursuant to "the Export Administrtaion Act" are not blanketly exempted from disclosure. But neither are they disclosable without restriction. Simply put, they are available under the Freedom of Information Act except where an exemption applies, as determined on a case-by-case basis. This is current law, and my amendment continues current law.

Exports are not unlike thousands of other business transactions in which Government collects certain information from business in order to make proper decisions. To protect business interests, the Freedom of Information Act exempts from public disclosure (exemption No. 4) "trade secrets and commercial or financial information obtained from a person and privileged or confidential." In this way, Government decisionmaking continues to be subject to public review, under "the Freedom of Information Act," but the interests of the companies submitting information are properly protected. The Freedom of Information Act should apply to export transactions as well.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. DORNAN. Mr. Chairman, I ask unanimous consent that I be allowed to continue for 2 additional minutes.

Mr. BINGHAM. Reserving the right to object, Mr. Chairman, hereafter I am going to object to requests for additional time.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Without objection, the gentleman from California (Mr. DORNAN) will be allowed to continue for 2 additional minutes.

There was no objection.

Mr. DORNAN. Mr. Chairman, the public has a right to know about its government. As a former broadcaster, I cannot help but believe that the public values its right to know how its government works. For example, it seems to me the American public has a right to know whether strategic materials are being shipped to Communist countries and whether these exports diminish our national security. If certain exports of critical American technology and goods are being used to strengthen the warmaking potential of Communist countries, as many contend, I believe the American public should be able to find out about it. Secrecy fosters suspicion and secrecy here is unnecessary. The Commerce Department would undoubtedly argue we should simply trust them to protect our interests, and that public scrutiny is unnecessary, but I cannot imagine that that view would sway this body. Government works best when subject to public review of its actions. The Commerce Department is no exception.

Allowing public access to these records will have no impact on our national security. National defense and foreign policy matters are already exempt under the Freedom of Information Act. Moreover, even in the case of U.S. trade with the Soviet Union, the Soviets already know what materials they imported from us. If the Kremlin has this information, why not allow the American people to have it?

Mr. Chairman, adoption of this bill's virtual blanket exemption would signal a sharp reversal of our public policy of wider access to Government records beginning with the passage of the Freedom of Information Act. This act was designed to compel the Federal Government to become more accountable to the American public, the ultimate judge of all Government policies, by making more information available about Government activities. But this bill's exemption has not been even considered by the Subcommittee on Government Information and Individual Rights of "the Committee on Government Operations," which has jurisdiction over "the Freedom of Information Act." As I understand it, it was only proposed late in the Foreign Affairs Committee's consideration of the bill, by a Commerce Department seeking to eliminate public scrutiny of its actions. No witnesses testified on this exemption No. 3 except for a brief reference by a Commerce Department witness and it was never even considered by the relevant subcommittee. This exemption would constitute a significant inroad into the Congress' often-stated policy to provide for maximum public disclosure of public records. Such blanket exemptions should only, if ever, be granted after a full review by the committees responsible for export policy, and for "the Freedom of Information Act." This has not been done.

Mr. Chairman, the only way to protect "the public's right to know" is to allow public access to these records, except where barred by the current exemptions to "the Freedom of Information Act." To create a blanket exemption would be a victory for an executive department afraid of public review. To continue current law as my amendment does, would be a victory for the public's right to know.

AMENDMENT OFFERED BY MR. PREYER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DORNAN

Mr. PREYER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. PREYER as a substitute for the amendment offered by Mr. DORNAN: Page 50, strike out line 2 and all that follows through page 51, line 7, and insert in lieu thereof the following:

SEC. 114. Subsection (c) of section 12 of the Export Administration Act of 1969, as such section is redesignated by section 104 (a) of this Act, is amended to read as follows:

"(c)(1) Except as otherwise provided by the third sentence of section 8(b)(2) and by section 11(c)(2)(C) of this Act, information obtained under this Act on or before June 30, 1980, which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest.

"(2) Any department or agency exercising any function under this Act may withhold information obtained under this Act after June 30, 1980, only to the extent permitted by statute, except that information concerning licensing of exports filed under this Act shall be withheld from public disclosure unless the release of such information is determined by the head of such department or agency to be in the national interest.

"(3) Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommitee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.".

Page 60, strike out lines 1 through 7 and redesignate subsequent paragraphs accordingly.

Mr. PREYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. PREYER. Mr. Chairman, I have a substitute for the Dornan amendment at the desk. I ask unanimous consent that the amendment be considered as read.

I offer the amendment because I believe that the provision now in the bill and the Dornan amendment will do unnecessary damage to the concept of access to properly disclosable information.

As reported, section 114 would totally and permanently exempt from disclosure a broad category of information relating to exports. Chiefly at issue here is the information reported on the Commerce Department document known as the "Shipper's Export Declaration" or SED. An SED must be filed for each export from this country. Under the bill, none of the data on an SED would ever be made public. This blanket exemption is unnecessary and unwise for two major reasons.

First, some of the information that the bill seeks to protect is not confidential in any way. No one disputes that some of this information can be obtained from several sources. Why should we prohibit one agency from disclosing information that is already available from another agency or from public sources?

Second, export information which is legitimately confidential already receives a full measure of protection under the Freedom of Information Act. There is no need to provide additional protection under other laws.

H.R. 4034 would lock up much export information forever. However, my substitute does not go to the other extreme and make information automatically available. My amendment is a compromise, incorporating both Freedom of Information principles as well as the practical needs of the Commerce Department and exporters. Under my amendment, export data already filed with the Department of Commerce would continue to have the protection that Commerce seeks. In addition, this protection would extend to information collected during the rest of this year. Thus, no information already collected with an expectation of confidentiality would be disclosed under my amendment. Further, everyone would have a transition period of almost 6 months to prepare for the new rules.

The new rules that would take effect on June 30 of next year are very simple and very familiar. Documents filed after that date would be subject to the Freedom of Information Act. The act provides sufficient protection for confidential business data. The fourth exemption specifically covers trade secrets and confidential commercial information. Legitimate business confidentiality will not be breached.

There are additional reasons why it is important that my amendment be adopted. They are inflation and the balance of payments.

As early as 1976, the Treasury Department recognized that increased access to export information would lead to better and cheaper services in the export industry. In turn, this makes U.S. exporters more competitive with foreign suppliers. The Treasury Department amended its regulations in 1976 to make available from Customs Service documents much of the same information which is at issue here.

My amendment is necessary because the Treasury regulations are not universally followed and much data which should be public is not. Because Commerce Department regulations require that the shipper's export declaration be fully and accurately completed, the problems of gathering information from Customs documents will be avoided.

Current disclosure practices for some export related information would not be affected by my amendment. Where export licenses are required, my amendment allows for full protection of confidential information related to the license application. In this regard, my amendment does not differ from the bill. For the publication of export license information, my intent is identical to the intent reflected in the report of the Committee on Foreign Affairs. Also, my amendment does not differ from the bill with regard to the disclosure of boycott data. Current disclosure practice for this data will prevail.

In conclusion, let me note that the free flow of information is essential to a free market economy. We have a chance here to let the information work for us by lowering costs and helping the dollar. This is why so many businesses are in favor of the publication of export information. I urge my colleagues to support it as well.

□ 1130

Mr. FASCELL. Mr. Chairman, would the gentleman yield on that point?

Mr. PREYER. I am glad to yield.

Mr. FASCELL. As I gather what the gentleman is saying, the amendment which the gentleman proposes would make public confidential business information.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. PREYER) has expired.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the substitute. The Preyer substitute is a well balanced approach that will allow for the orderly release of information.

At the same time, it will also protect against the release of confidential business information or information related to our national security. Export license applications, most of them covering items controlled for reasons of foreign policy or national security, are specifically excluded from disclosure under this amendment. Other information submitted by exporters may also be withheld under the Preyer amendment where it meets the standard for protection of confidential commercial information under exemption 4 of the Freedom of Information Act.

The current language of the bill restricts the disclosure of export information too narrowly. It is generally agreed that much of the export data supplied by shippers is not secret, so there is no reason to create a general exemption for it. Moreover, having some export data available—such as who is shipping what products to which countries—should help spur export competition. It will enable exporters, shippers, and transporters to compete more effectively in world markets. The Preyer amendment will permit these benefits, without violating legitimate business confidentiality.

The amendment also provides for a rather long transition period until December 31, 1979. This will allow adequate time for the Department of Commerce and shippers to make necessary preparation for release under the new rules. I believe this amendment balances a number of competing interests in a fair and even handed way. I urge the adoption of the substitute.

I yield to the gentleman from North Carolina to answer a question that I am going to propound here.

I gather what the gentleman is saying here is that the principal amendment for which the gentleman proposes this substitute would make public confidential business information which is now in the export license application; is that what the gentleman said?

Mr. PREYER. My amendment would make available information that relates to export information. This is the information that shippers want to know.

Mr. FASCELL. I was talking about the principal amendment.

Mr. PREYER. Oh, I am sorry.

Mr. FASCELL. The Dornan amendment.

Mr. PREYER. The Dornan amendment makes available information from the licensing process.

Mr. FASCELL. That is what I thought the gentleman said.

Mr. PREYER. It involves much confidential business information.

Mr. FASCELL. Business information, yes.

Mr. PREYER. Yes, which should not be released.

Mr. FASCELL. And which heretofore has not been released.

Mr. PREYER. Right.

Mr. FASCELL. And generally has been accepted as a trade matter which should be kept confidential.

Mr. PREYER. The gentleman is correct. This would be a broad new expansion, a new doctrine.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I do not mean to disagree—actually, I do mean to disagree.

I am proposing that we keep current law. Current law now is that this information is available under the Freedom of Information Act.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the chairman.

Mr. BINGHAM. The problem is that the current law turned out to be unsatisfactory in the light of the Freedom of Information Act. The gentleman in the well is probably the expert on this subject.

The reason the current law is unsatisfactory is that the courts have interpreted the Freedom of Information Act to in effect overrule the intention of the Congress when it extended the Export Administration Act in 1977.

The gentleman is technically correct that the amendment will leave the law as it is, but it does not meet the problem.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for making that explanation. That is the reason I rose, because it seems to me that what we were trying to deal with is to correct a very difficult situation, because the present law was not adequate in balancing off the interest of the right to know and the freedom of information and still protect business confidentiality. It seems, to me, quite clear that the substitute amendment of the gentleman from North Carolina does that.

Therefore, Mr. Chairman, I rise in strong support of the substitute and urge my colleagues to support it.

(Mr. FASCELL asked and was given permission to revise and extend his remarks.)

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. Yes; I would be delighted to yield.

Mr. QUAYLE. Mr. Chairman, I thank the gentleman from Florida.

I commend the gentleman from North Carolina, who has been an expert and a leader in this field of the Freedom of Information Act and serves as its chairman. I was fortunate enough in the last Congress to serve on that subcommittee.

I have a couple questions. First of all, on that date of June, 1980, what about all the past information that has been compiled up to that? Are we putting a freeze on secrecy on all that information up to June of 1980?

Mr. PREYER. Mr. Chairman, if the gentleman from Florida wishes to yield to me to answer, I would be glad to respond. I do not believe I have the time.

Mr. FASCELL. I was not paying that close attention.

Mr. PREYER. The gentleman from Florida has the time.

Mr. QUAYLE. The gentleman from Florida has the time.

Mr. FASCELL. I was going to say, I yield to the gentleman from North Carolina.

Mr. PREYER. Mr. Chairman, the answer to the gentleman's question is yes. What this bill does is to grandfather in confidentiality for information that has been received under a pledge of confidentiality by the Commerce Department. We do not think it is fair to say retroactively that information which businesses gave with the understanding that it was confidential should be now open and available. My amendment does freeze that information; its effect begins as of June 30, 1980, and in the future.

Mr. QUAYLE. Mr. Chairman, would the gentleman from Florida, who is controlling the time, be good enough to yield further?

Mr. FASCELL. I would be delighted to yield.

Mr. QUAYLE. Mr. Chairman, I just would like to follow up on that one point of confidentiality. I was under the impression that these companies furnish that information on the basis of confidentiality, because it says confidential on the form, but it also says within the provision of section 7(c) of the Export Administration Act, but subsequent to that a court has found out that it is not constitutional.

We are not getting into trade secrets. I do not like to get off on that, because I do not want that information. I think it is a tough area and I commend the gentleman for his leadership on this; but I am a little bit concerned and the gentleman from Florida has been a leader on this, too. I am concerned about putting a lid on all past information, just putting an arbitrary clamp on June 1980. That bothers me.

The CHAIRMAN. The time of the gentleman from Florida (Mr. FASCELL) has again expired.

(At the request of Mr. PREYER and by unanimous consent, Mr. FASCELL was allowed to proceed for 1 additional minute.)

Mr. PREYER. Mr. Chairman, if the gentleman will yield further, there is considerable confusion about the existing law in this area. This bill makes a specific exemption as to pending lawsuits. We do not try to clarify present law which frankly is so confused that I do not think we can ever come to grips with it. What the bill does do is set out the law clearly from June 30, 1980, on. The rights in the future, I think, will be well understood.

Mr. FASCELL. Mr. Chairman, one of the problems and the reason for the date is that the information asks names of customers and prices of goods which is and should be trade secrets. That is the problem and that is the reason for the cutoff.

Mr. QUAYLE. Mr. Chairman, would the gentleman yield, whoever has the time?

Mr. FASCELL. I yield to the gentleman.

Mr. QUAYLE. If price and value were taken out instead of parties having to name the country, would the gentleman change his mind as far as that information being released?

The CHAIRMAN. The time of the gentleman from Florida (Mr. FASCELL) has again expired.

(At the request of Mr. QUAYLE, and by unanimous consent, Mr. FASCELL was allowed to proceed for 30 additional seconds.)

Mr. FASCELL. Mr. Chairman, I think it generally is released.

Mr. QUAYLE. Not according to this amendment, I do not think so.

□ 1140

Mr. ALEXANDER. Mr. Chairman, I move to strike the requisite number of words.

(Mr. ALEXANDER asked and was given permission to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Chairman, I take this time to rise in support of the substitute offered by the gentleman from North Carolina (Mr. PREYER), and I do so as a member of the President's Export Council.

I wish to advise the Members present today that the President's Export Council met just yesterday and considered the problem which is raised by the amendment offered by the gentleman from California (Mr. DORNAN). If the amendment offered by the gentleman from California (Mr. DORNAN) were adopted, it would in effect immobilize the efforts of the President's Export Council to formulate an aggressive export policy that will enhance the position of this country to trade with foreign nations and with foreign customers.

The President's Export Council adopted unanimously a resolution to support the language offered by the gentleman from North Carolina (Mr. PREYER), which language is substantially the same as that contained in a Senate bill which has already been adopted.

Mr. Chairman, I urge my colleagues who are concerned about the formulation of an export policy to enhance the position of this country to trade with foreign nations to support the substitute offered by the gentleman from North Carolina (Mr. PREYER), and I do so as a spokesman for the President's Export Council which has adopted a resolution in support of that amendment.

Mr. Chairman, the Export Administration Act legislation is aimed at helping exporters eliminate unnecessary redtape and confusion in obtaining export

licenses. The bill is a necessary first step in allowing Congress a role in developing a national export strategy.

However, the language of the original Export Administration Act is not sufficiently precise to meet the standards established by the Freedom of Information Act (FOIA) in protecting the confidentiality of the shipper export declarations (SED's).

At the time, litigation is pending to gain access to individual SED's under the Freedom of Information Act.

Mr. Chairman, it is important that exporters be allowed confidentiality on their SED's. The data disclosed on SED's includes confidential business information in which disclosure to competitors would be harmful. Foreign competitors would be especially benefited because they would not have similar vulnerability.

Under existing Federal law and regulations, exporters are required to file a SED for each merchandise shipment exported from the United States. The SED covers 20 items of information concerning the details of the particular export transaction. Among other things, a SED includes the name of the exporter, net quantity, value of the shipment, shipping weight, date exported, et cetera.

The confidentiality issue is not an attempt to skirt national security policy or the critical technology issue; it is an attempt to protect the integrity of the merchant-buyer relationship. If Census is to continue to receive information on a scale sufficient to the demands for statistical data, it must be widely perceived as treating all data it receives confidentially.

The United States needs to be protecting and encouraging the export of American goods and services, not hindering those companies trying to gain access to markets.

The Preyer amendment would retain confidentiality of SED's until June 30, 1980. In order that my colleagues can more fully understand the SED issue, the following prepared by the Caterpillar Tractor Co. should prove to be useful. The President's Export Council, of which I am a member, has also endorsed the confidentiality of SED's.

I urge my colleagues to support the Preyer amendment.

The material follows:

CATERPILLAR TRACTOR CO.,
Peoria, Ill.

EXPORT ADMINISTRATION ACT AND THE CONFIDENTIALITY ISSUE

SUMMARY

This memorandum states Caterpillar's concerns with the possible public release of Shipper's Export Declarations (SEDs), together with the company's views as to why the Export Administration Act should be amended to ensure that SEDs will remain confidential in the future.

Why We're Concerned. Caterpillar is a major exporter from the United States, with $2.2 billion in exports in 1978 (the second largest total of any U.S. company). Caterpillar has filed some 40,000 SEDs annually in recent years, and disposition of these documents—which contain important and detailed business information—is of vital concern to the company.

Recent court cases indicate that existing Export Administration Act (EAA) language authorizing the Secretary of Commerce to maintain confidentiality of SEDs may not be sufficiently precise to meet standards established by the Freedom of Information Act.

Exporters, such as Caterpillar, could be faced with the disclosure of valuable commercial information contained in SEDs, revelation of which would strengthen the position of competitor companies. All competitors, U.S. and foreign, could benefit from public disclosure of SEDs filed by Caterpillar. Caterpillar, of course, would also gain access to information about U.S. competitors. The big gainers, however, would be foreign competitors. They would gain valuable information about all U.S. exporters . . . while Caterpillar and other U.S. firms would have no access to comparable information about them.

Surely, no one intends this to be a result of either the Export Administration Act or the Freedom of Information Act. If U.S. export performance is to be strengthened, it is important to resolve the matter of SED confidentiality in a way that does not add still another burden to be borne by U.S. exporters alone. That's a matter for Congress, not the courts, to decide.

In the absence of appropriate legislative action, Caterpillar might still be able to fight disclosure of SEDs in the courts. However, such legal action would be expensive; it would consume the time of people who could better devote their efforts to expanding exports; and the outcome would still be uncertain. It is also possible that companies would be required to file suit or take other action on an individual basis to prevent release of their SEDs, which would impose a particular burden on smaller U.S. exporters for whom the regulatory maze is already a strong discouragement to exporting.

Conflict Between Freedom of Information Act and Export Administration Act. The Export Administration Act gives the Secretary of Commerce authority to require such reports as may be necessary or appropriate to the enforcement of the Act. For census and other purposes, the Commerce Department requires the filing of a Shipper's Export Declaration with each export shipment.

This document then becomes a piece of U.S. Government paper, subject to possible disclosure under the Freedom of Information Act (FOIA). The existing EAA authorizes the Secretary of Commerce to protect the confidentiality of business information obtained in reports, but courts have ruled that existing EAA language is not precise enough to meet certain FOIA standards. The issue at this point is whether the confidentiality directive should be maintained and clarified by revised EAA language which would bring it into line with FOIA standards.

What Does a Constitutional SED Conceal From the Public? Let's begin by considering what an SED is and isn't.

Each SED is a report from a single company about a single export transaction.

It is not an application for any kind of government action. It is not a document on the basis of which any kind of decision will be made.

It does become relevant when a substantial number of such documents have been collected; they then provide useful census-type information which may serve as the basis for policy studies or judgments.

But a single SED has on governmental purpose in ordinary usage . . . just as a census form for an individual household does not serve as the basis for governmental decisions, although information aggregated from such forms is important in many respects, such as apportioning seats in the House of Representatives among the states.

SEDs do reveal information about individual commercial transactions. A market analyst in possession of a number of SED's filed by a company could learn much about that company's customers, sales, pricing policies, business trends, dealer organization, replacement parts sales opportunities, and other information. Other companies with access to such information could use it to significant competitive advantage. They could more carefully target market development efforts, identify potential new customers, adjust production scheduling and inventories, adapt pricing strategies, and make countless other decisions on the basis of hard information—where as now they must make many such decisions on the basis of estimates or guesses.

A competitor, in business or politics, who knows everything you do, while you know much less about him/her, has a significant advantage.

Is the Whole SED Confidential? No. Clearly some information contained on the SED form is not confidential—the name of the exporting carrier, for example.

No single piece of information on the SED if released alone, would be confidential. What is special about the SED is the detailed picture it gives of a single transaction.

Some Information on SEDs is Already Available Elsewhere. Some information available in SEDs is also available to the public and press in other documents. Specifically, title 19 (customs duties) of the Code of Federal Regulations, sec. 103.11, specifies conditions under which information on vessel manifests may be disclosed to members of the press and to the public. Members of the public are permitted to obtain information from, but not to examine, vessel manifests.

Members of the press may examine vessel manifests, and copy and publish certain data. "Of the information and data appearing on outward manifests, only, the general character, destination, and quantity (or value) of the commodity, name of vessel, names of shippers,(°) and country of destination may be copied and published. Where the manifests show both quantity and value, either may be copied and published, but not both in any instance." (°Shippers may request that access to the name of a shipper be refused.)

Some argue that such existing availability of some of the information contained in SEDs is reason to make the SED publicly available, in whole or in part. That argument can be turned around: if much information is already available, why is more needed? Why put the U.S. Gobernment in the effective position of telling the world more details about its exporters and their transactions than other governments do about theirs?

The "it's already available" argument also reveals, however, an important additional reason for maintaining the confidentiality of SEDs.

The press may now publish, from outward manifests:

General character of commodities.
Destination.
Quantity or value (but not both).
Country of destination.

It has been suggested that comparable information contained in SEDs be released, and that only a few key items in the SED need be kept confidential, such as the identity of consignees and the value of the shipment.

However, if the rest of the SED is available to the public or press, it would be an easy matter to match up information from such SEDs with published information—obtained from manifests—about the same shipment. Information common to the two documents (name of vessel, destination) could be used to match up the SED with a published report based on the manifest. Information on quantity could then be obtained from the SED; information on value of the same shipment could be copied from the manifest.

Combining two sources in this manner could provide nearly as complete a picture of an individual transaction as if the entire SED were released.

Two-part SED a Compromise Solution? A two-part SED has been proposed as a possible compromise. A precedent is found in the two-part form prescribed for boycott reports in another section of the EAA. We don't think this is a good solution.

First, it would inevitably add to the paperwork burden of filling out and filing SEDs. Caterpillar alone files over 40,000 such documents annually, and administrative inconvenience is a significant argument against complicating this form unless there is a compelling reason to do so. We simply don't need more governmental paperwork.

Second, the basic purpose of the boycott reports—cited as a precedent for the two-part form—is to gather information about boycott requests. Take away the confidential business information from the boycott report form, and the report still serves its basic purpose of indicating the nature and value of boycott requests received by U.S. exporters.

Take away the confidential business information from the SED, and nothing of importance is left. (It should also be noted that the SED calls for more detailed information. There is no reference anywhere in the boycott form to consignees, for example.)

Thus, we believe there is no valid reason for a two-part SED, and the entire document should remain confidential . . . just as entire Census Bureau documents remain confidential, even though telephone directors and many other publicly available documents repeat much of the information contained in a census form.

Public Enumeration of Confidential Items. If a specific enumeration of items which the Secretary of Commerce may hold confidential is to be included in the EAA, an appropriate list is contained in H.R. 4034 as reported by the Foreign Affairs Committee:

Parties to a transaction.
Type of good or technology being exported.
Destination.
End use.
Quantity.
Value or price.

For Caterpillar's purposes, "end use" could be dropped from this list. However, there may be other exporters for whom this is also a sensitive item.

In summary, we urge the Congress, in dealing with this matter, to avoid the following:

An SED that is subject to release in its entirety; and

An SED that is released in part and that can be matched up with other publicly available information about individual export transactions so as to provide a detailed picture of each transaction.

Both S. 737 and H.R. 4034 contain acceptable provisions on confidentiality, and Caterpillar supports enactment of either of these provisions, or some combination of them.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the substitute amendment.

Mr. Chairman, I want to say that the gentleman from California (Mr. DORNAN) has a good idea. I support and understand his objective, but I think it is better reached and more moderately and appropriately reached by the language worked out by the gentleman from North Carolina, Judge PREYER, who has worked on this matter very assiduously.

The Freedom of Information Act is one of the most important pieces of legislation that Congress has enacted in recent years. It stands as a monument to our belief in the idea that the people have a right to know what the Government is doing and what these corporations are doing.

I must view with concern, therefore, any legislation which tends to restrict the access of the public to information in the hands of their Government. I do not mean any criticism of the Committee on Foreign Affairs in saying that. They have fashioned a bill dealing with the very complex question of export controls, in which the section the gentleman from North Carolina seeks to amend is a minor part. And, as their report shows, they resisted an effort by the Department of Commerce to write a much broader exemption from the Freedom of Information Act into the bill.

I believe the language proposed in the substitute amendment offered by the gentleman from North Carolina (Mr. PREYER), the distinguished chairman of the Subcommittee on Government Information and Individual Rights, which watches over the Freedom of Information Act like a mother hen, presents a better, a more rational, a more reasonable, and a more rational, a more reasonable, and a more workable and feasible solution to the problem that is presented here.

The Preyer substitute would preserve the existing protections against the release of confidential information.

In fact, it would make very little difference in the way the information involved in export transactions is supposed to be handled now.

Mr. Chairman, if we are interested in preserving the integrity of the Freedom of Information Act, if we are interested in preserving the vitality of our corporations whose exports must be licensed, and the business which seek overseas they, then we ought to support the Preyer substitute.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the distinguished gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, I, too, would like to protect the Freedom of Information Act, and I, too, am worried about our export trade.

I would like to call the attention of the Members of the House to the fact that our exports account for less than 7 percent of our GNP. In Germany their exports are 22 percent of their GNP; in Belgium they are 45 percent of their GNP. We are losing out in the export market. Companies are strangled by these restrictions.

Mr. Chairman, I think the bill is better than the Preyer amendment, but the Preyer amendment is better than the Dornan amendment. We are going to kill our export trade and our small businesses that are trying to get into it.

Mr. BROOKS. Mr. Chairman, I want to thank the gentlewoman from New Jersey (Mrs. FENWICK) for emphasizing the importance of the Preyer amendment.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, a great member of the committee.

Mr. QUAYLE. Mr. Chairman, I might correct the gentleman and say "a former great member."

Mr. BROOKS. A great former member of the Government Operations Committee.

Mr. QUAYLE. I wish I were still there.

Mr. Chairman, may I ask the gentleman, what information would be revealed under this substitute?

Mr. BROOKS. Not any more than is released now; not confidential business secrets.

Mr. QUAYLE. Would the countries that they are trading with be released, or would that be not reseased?

Mr. BROOKS. They would be.

Mr. QUAYLE. Mr. Chairman, that is what I am concerned about. I do not think, according to the substitute, that the countries would be released. I am concerned about that, plus putting the lid on by June 30, 1980. Those two things bother me.

The gentleman knows that I support him. I support him most of the time and follow his leadership, but on this, if I would follow his leadership, I would need a couple of clarifying statements on the subject.

Mr. BROOKS. Mr. Chairman, perhaps that could be found in the report. I think the gentleman understands report language.

Mr. QUAYLE. Mr. Chairman, I understand the importance and the integrity of report language that we so often refer to when we just do not want to put it in the bill.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman from California (Mr. LAGOMARSINO) should have his 5 minutes on the amendment, but after that I will ask unanimous consent that debate cease in 10 minutes.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I think the gentlewoman from New Jersey (Mrs. FENWICK) summed this up very well. The bill is better than the Preyer amendment, the Preyer amendment is better than the Dornan amendment, and I am not sure about what the Quayle amendment does, if the gentleman ever offers it.

I think what we did in the bill, which represents a compromise in and of itself, is a pretty good solution to a very difficult problem. The Department of Commerce and the exporting industry had asked us to clarify the law and in effect to reverse court decisions.

What we did instead is this: we turned down that request. I thought, frankly, we should go along with that request and change the law completely, but the committee disagreed. They felt it would not be wise to grant that request, and it is the committee's intent in this provision to meet the requirements of the Freedom of Information Act by specifying the

particular types of matters which may be withheld from disclosure.

Section 114 of the bill we are discussing here—

Further provides, however, That this provision shall not be construed to require the withholding of any type of information which, immediately before the effective date of these amendments, is not being withheld from disclosure.

This language which is in the report, continues:

The committee specifically intends that the information currently published in the daily list of export licenses granted—that is, the type of commodity, value of the transaction, and country of destination—shall continue to be made available to the public.

I think it is important to point out that the language in the bill is strongly supported by the export industry. They feel that not to do this is going to affect their ability to compete with other countries and with each other. I say that the confidentiality provision in this bill does not conflict with the principles of the Freedom of Information Act.

□ 1150

It is quite specific, as required by FOIA, and it does not prevent disclosure of Government information but, rather, prevents publication of data submitted by business as a function of exporting, data which the Government does not have for domestic sales, as a matter of fact.

The Government is not precluded from publishing statistical information, and protecting confidentiality of information can be critical for the success of a business in a particular deal.

The information, if published, would enable foreign and domestic competitors to gain significant advantages in the same markets. It has always been public policy to insure confidentiality of competitive business information. For example, custom import declarations are confidential. IRS returns are not published. Domestic production and pricing statistics are not published when there are only one or two producers.

If Government requires business to supply confidential information, then Government should provide protection for that information.

As the Members will note from the language of the bill itself, there is absolutely no intention to restrict this information from being made available to Congress. As a matter of fact, we strengthen the provisions requiring that this information be furnished to Congress itself.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Maryland has become interested in this because of his acquaintance with M. Stanton Evans, one of the plaintiffs in the suit seeking from Commerce information that has been withheld.

My study of this question seems to run totally contrary to what the gentleman has said and, in fact, Commerce is not allowing the information out that the courts in one instance have already ruled they must allow, and that this bill and the Preyer amendment, which is almost the same as this bill, will ratify Commerce's refusal to reveal this information about strategic materials and processes being shipped to unfriendly nations.

Somewhere in all of this no one has hardly mentioned the fact that this overturns a court decision and severely restricts the Freedom of Information Act. I cannot understand why that is in the best interest of this country.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I would like to concur in the remarks made by the gentleman from California and the gentlewoman from New Jersey. I would like to remind this body that we are standing here with a $30 billion trade deficit from last year. We are trying to expand exports. We are not doing a very good job of it.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. LAGOMARSINO) has expired.

(By unanimous consent, Mr. LAGOMARSINO was allowed to proceed for 2 additional minutes.)

Mr. LAGOMARSINO. Mr. Chairman, I continue to yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, what we are trying to do as a national policy is to expand exports. What we are doing in our amendments to the Export Administration Act on this floor is to try to limit exports. The amendment offered by the gentleman from California is an amendment intended to harass all potential exporters who will not now export because they have to produce a whole bunch of information that will become available to the world. The amendment offered by the gentleman from North Carolina is the same thing, only not quite as bad.

We need to stimulate exports. We have to tell American businessmen to get out and work harder, not be more confused and more depressed by the kind of limitations that we are putting on here. It is simply a question of whether you want to export or whether you do not. If you want to have all of this extra information spread out and demanded of our producers, they simply will not export.

Mr. Chairman, I think all of the amendments should be defeated.

Mr. LAGOMARSINO. Mr. Chairman, I want to make an additional comment.

The gentleman from Maryland made a statement about the effect this would have on existing litigation. Section 123 of this act, page 62, provides:

This Act and the amendments made by this Act shall not affect any investigation, suit, action, or other judicial proceeding commenced under the Export Administration Act . . .

So we have exempted existing suits.

I would like to conclude by reading to the Members one sentence from a telegram on this subject from Caterpillar Tractor Co., one of the largest exporters in this country, just one paragraph. I will put the telegram in the RECORD in its entirety.

Caterpillar has always complied willingly with Commerce Department requests for SED's and other documents, relying on the promise of confidentiality contained in the EAA and printed on each copy of the SED form. (SED's are shippers export declarations.)

The complete text of the telegram is as follows:

CATERPILLAR TRACTOR CO.,
May 1, 1979.

Hon. ROBERT J. LAGOMARSINO,
House of Representatives,
Washington, D.C.

We want to invite your attention to a serious problem that has arisen with regard to the Export Administration Act (EAA). It's a matter we believe deserves urgent consideration when the Foreign Affairs Committee meets to mark up H.R. 3652, a bill to extend and amend the EAA.

At issue is treatment of confidential business information submitted to the Department of Commerce. Under the authority of the EAA, the Commerce Department requires exporters to provide considerable information about export transactions.

Caterpillar's most serious concern is with shippers' export declarations (SED's). A copy of this document must be filed for each export shipment. Caterpillar is a major U.S. exporter. In 1978 alone Caterpillar filed SEDs for approximately 19,635 surface shipments. In addition, Caterpillar made 22,542 air shipments in 1978, most of which required the filing of SEDs. (Caterpillar exports amounted to some $2.2 billion in 1978, and provided jobs for 25,000 of Caterpillar's U.S. employees.)

The prescribed SED form requires shippers to provide detailed information about the consignee, items being exported, quantity, and value. Such information is of considerable commercial value. In the hands of competitors, it would provide important market intelligence about Caterpillar's customers, sales of specific products, pricing policies—knowledge of which could help competitors identify promising sales targets, focus sales efforts for competitive replacement parts, develop pricing strategies—all to the competitive disadvantage of Caterpillar.

Such commercial intelligence would be of great value to both foreign and domestic competitors. However, the greatest advantage would be to foreign competitors, who would be able to gather data about all U.S. exporters without expending the tremendous amount of time, effort, and money that would be required to obtain this information in other ways.

Caterpillar has always complied willingly with Commerce Department requests for SEDs and other documents. Relying on the promise of confidentiality contained in the EAA and printed on each copy of the SED form.

Now, however, the Commerce Department's ability to maintain confidentiality of this information is being challenged in court suits, which are based on a claim that section 7(C) of the present EAA does not meet certain standards for an exemption under the Freedom of Information Act. One of these suits would force the Commerce Department to disclose all information contained in SEDs. The potential competitive harm to Caterpillar, should SEDs be disclosed, is substantial.

We urge you to face this issue squarely and to resolve the conflict between the Freedom of Information Act and the Export Administration Act in a manner that will not harm U.S. exporters, either individually or as a group. If Congress fails to amend the EAA, courts may force disclosure of information of considerable commercial and marketing value, particularly to foreign compet-

itors. Meanwhile, U.S. companies will have no offsetting access to comparable information from foreign competitors. Their governments, aware of the value of commercial and marketing intelligence, do not require such disclosure.

There is growing recognition, prompted by concern over the large U.S. trade deficit, that the needs of U.S. exporters have too often been given inadequate attention. We hope that won't happen in this instance.

What should be done? A provision is needed in the EAA that conclusively provides for the protection of confidential information submitted to the Commerce Department under the EAA.

There is now a conflict between the Freedom of Information Act and the EAA, and as an unintended result, the U.S. Commerce Department could in effect be forced to help overseas companies compete more effectively against U.S. exporters through release of SED information. We do not believe Congress intended to undermine the competitive position of U.S. companies in this manner. We urge you to amend the EAA to eliminate this problem.

DONALD R. NIEMI,
Governmental Affairs.

Mr. PREYER. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from North Carolina.

Mr. PREYER. Mr. Chairman, I would like to just reply to the comments of the gentleman from Minnesota.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. LAGOMARSINO) has expired.

Mr. PREYER. Mr. Chairman, I ask uanimous consent that the gentleman be allowed to proceed for 1 additional minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. VOLKMER. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto cease in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. QUAYLE. Mr. Chairman, reserving the right to objection, I hope that the gentleman would not insist on his 10-minute limitation to this colloquy. I do have a perfecting amendment to the Dornan amendment. After the expiration of my time on that amendment, then I would not object to limitation of time. So I would hope that I could convince the gentleman to withdraw his unanimous consent request.

Let me offer and explain my amendment, and then if the gentleman wants to ask for a 10- or 15-minute limitation, I would not object at that time.

Mr. BINGHAM. If the gentleman will yield, the gentleman will have to make his peace with the gentleman from California (Mr. DANNEMEYER), because his time is being cut down by every additional minute we spend on this amendment.

The CHAIRMAN pro tempore. Does the gentleman from New York (Mr. BINGHAM) withdraw his unanimous consent request?

Mr. BINGHAM. Mr. Chairman, I withdraw my unanimous consent request.

AMENDMENT OFFERED BY MR. QUAYLE TO THE AMENDMENT OFFERED BY MR. DORNAN

Mr. QUAYLE. Mr. Chairman, I offer an amendment to the Dornan amendment.

The Clerk read as follows:

Amendment offered by Mr. QUAYLE to the amendment offered by Mr. DORNAN: On line 3 of the amendment strike all after the word "following" and insert the following:

(1) in the first sentence by striking out "is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information" and insrting in lieu thereof "would reveal the countries of the parties to an export or re-export transaction, the type of good or technology being exported or re-exported, or the destination, end use, quantity, value, or price of such good or technology for a period of six months after issuance or denial of an export license or granting or denial of re-export authorization (after which this information, with the exception of value or price of such good or technology, will be available pursuant to section 552 of Title 5, United States Code)"; and

(2) by striking out the last two sentences and inserting in lieu thereof the following: "Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and all information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest."

Redesignate the following sections accordingly.

Mr. QUAYLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. QUAYLE. Mr. Chairman, this amendment is basically a compromise between what the gentleman from California (Mr. DORNAN) and the gentleman from North Carolina (Mr. PREYER) are trying to do. Let me tell the Members what this amendment does.

It does not release any information during the licensing process. I do not think that it is appropriate to release this type of information during the process, during the ongoing negotiations, but I do want some information—revealed to the public, if the public wants it, 6 months after the export license is granted.

I realize that it is a very delicate thing to balance what is in fact a trade secret, what should be confidential and what should be the people's right to know. That is not an easy question to answer. In this amendment there are a couple of things that are taken out that are now in the bill. One of those things, we do not ask for the parties involved. We do ask for the countries of the parties. So the businesses cannot complain that you are going to give them the list of their parties. Only the countries.

This amendment also takes out the price and the value. I happen to think that that should be confidential, and we do not want our businesses subject to have the other businesses go in and try to find out how much it is going to cost or what the value was in trading an item. So the only thing that would be revealed would be the countries of the parties, the type of goods or technology, the destination, the end use, and the quantity. That is reasonable, to compromise. And I want to point out that this information would not be released until 6 months after the fact—6 months after the fact.

The problem I have with my good friend—and the gentleman knows that I have utmost respect for his leadership in this area, having served on his committee, his judiciousness and fairness, not only in this, but in everything—the problem I have with the substitute or his amendment is the fact that you put an arbitrary blanket clamp on any information until June 30, 1980. Nothing could be released. And then after that, I do not even know what could be released. So this spells out a compromise, a compromise instead of asking for the parties, we have put in the countries, I have compromised that we will not ask for the value or the price. I will say to those Members who are concerned about hurting exports that we ought to cut out some of the paperwork that they have to file with the Government in the first place. If that is a concern, cut some of the redtape; but do not cut back the people's right to know. And they do have a right to know. I realize that it is delicate, it is a tough situation, but I think this compromise language will get to the heart of the matter and I hope the amendment is accepted.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I want to say to the gentleman that we have seen the Preyer amendment characterized as a compromise. It is no compromise at all. It is a cosmetic change in the bill's language which in fact restricts the public's right to know, and we do have to balance the rights of exporters against the damage done to this country by trading in strategic processes, materials and products with Communist nations which use them to build up their military establishment against us. These are the issues that are being balanced here. The gentleman's amendment is a true compromise. It does protect the rights of business exporters and at the same time the equally and even more important right of the American people to know that their Government will not permit to fall into the hands of our enemies, secrets and processes and products that should not be there.

Mr. Chairman, I commend the gentleman for offering his amendment.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. QUAYLE. I yield to the gentleman from California.

Mr. DORNAN. I thank the gentleman for yielding.

Mr. Chairman, because we are all trying to be conciliatory here, I hate to be political; but I will put my Chamber of Commerce rating or yours up against anybody who has spoken against my amendment or the gentleman's perfecting amendment, which I accept, against any Member who has spoken against us on this side of the aisle or that side of the aisle.

We are the defenders of free enterprise. I want to give American business the right and the freedom to export all over the world. But what Mr. Stan Evans, the distinguished citizen from the gentleman's State is trying to find out are the ugly secrets involved with the Kama River problem, that massive truck factory.

□ 1200

Those trucks will be carrying soldiers to kill people in Israel soon. That is why the American-Jewish Congress Against Kreps has a case this so-called substitute amendment would cut. We would change current cases and change current law by this cutting amendment of the distinguished gentleman from North Carolina.

I accept the criticism of the distinguished gentleman from Florida to put a 6-month limit on this and keep prices secret, but not to put everything under wraps until 1980.

Mr. BINGHAM. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto cease in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. Members standing at the time the unanimous-consent request was agreed to will be recognized for 45 seconds each.

The Chair recognizes the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Chairman, let me make clear that there is no compromise involved in the Quayle amendment as between the Dornan amendment and the Preyer amendment. The key thing we are losing sight of is there is a difference between licensing information and export information.

My amendment goes to export information. It carries out the policy established by William Simon, the former Secretary of the Treasury. It carries out the policy in effect at the Treasury Department right now.

It is simply being avoided by some shippers, mostly on the west coast, who remove or destroy the bill of lading. This prevents the routine disclosure of export information.

Mr. Simon is hardly a man who would harass business. As far as licensing information, the Dornan amendment and the Quayle amendment would reveal business information not now revealed. That is harassing business. That is the amendment the Members ought to be against.

The statements of the gentleman from Minnesota and the gentlewoman from New Jersey are directed at the licensing information that would be revealed. The disclosure of export information is already our policy.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. LAGOMARSINO).

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I think we should clarify exactly what we are doing here. I think that the language in the bill, as explained in the committee report which I referred to earlier, solves the problem to the satisfaction of industry and the people in the Department of Commerce. As far as strategic information, that does not have to be released now, as provided for by the Freedom of Information Act.

All of this information—and this is confirmed by and fortified in the bill—has to be furnished to Congress, and certainly we are capable of exercising oversight. I am sure that this subcommittee is going to continue to do that.

The CHAIRMAN pro tempore. The gentleman from California (Mr. DORNAN) is recognized.

Mr. DORNAN. Although the Foreign Affairs Committee report states that they turn down the administration request to exempt from the FOIA all information obtained from exporters under this act by receiving the types of information which could be withheld, the bill, in effect, grants a complete exemption.

The following information is exempt: Parties, type of goods or technology being exported, destination, end use, quantity—what else is there?

I wish every Member of this House could read the brief of the American-Jewish Congress against Kreps legal case to understand better exactly what we are talking about here.

If there are further refinements needed, let us get at them next year, but something has to be done now before we find ourselves facing Armageddon with our own high technology coming back at us in a totalitarian blitzkrieg.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

(Mr. BAUMAN asked and was given permission to revise and extend his remarks.)

[Mr. BAUMAN addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

(By unanimous consent, Mr. BAUMAN yielded the balance of his time to Mr. QUAYLE).

(By unanimous consent, Mr. ANDREWS of North Carolina and Mr. FASCELL yielded their time to Mr. PREYER.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Chairman, if I might finish up the argument I was making earlier, those who say the Preyer amendment is another amendment harassing business do not understand that this is a procompetitive amendment.

The more information that carriers, warehousemen, insurance people, and others who deal with the shipping industry, the more information they have, the more competitive they are, the more they can reduce prices, the more our shipping is competitive around the world.

The Dornan amendment is a broad-sweeping, new step in our policy. It adopts an open-door policy on information which is collected during the licensing process, information as sensitive as market shares, for example.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Chairman, there is a good bit of complication involved in this, far too much to discuss in 45 seconds, but I wish everyone who has spoken so eloquently on this subject today had studied the difference between the two different sections of the law involved and the two types of information to which we are directing our attention; the shippers export declaration is one thing, an export license application is another.

Either leave the bill as it is or support the Preyer amendment, but let us not go overboard with either of the alternatives that are presented with this and put more roadblocks in the way of developing exports for our Nation.

We are going far too far in an unnecessary way, I believe, with the amendment of the gentleman from California.

The gentleman from Indiana has sought to improve upon it, but we still are talking about two different things and not that involved in the Jewish Congress litigation.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, I owe the gentleman from North Carolina (Mr. PREYER) an apology. I was a little overenthusiastic in describing his amendment. His description of it is accurate. Mine was overstated. It is an enormous improvement over the Dornan amendment.

The Quayle amendment should be defeated. It does not make the Dornan amendment much more palatable.

The Dornan amendment should be defeated.

If the Preyer amendment is accepted, I guess it will not do too much damage; but, Mr. Chairman, there is nothing wrong with the language in the committee bill. That section was well written by the committee. That language is my first choice.

The best option for all of us is to defeat all of the amendments. We are trying to improve our balance of trade. We are trying to improve the value of the dollar by reversing our persistent trade deficits. We want to enhance export development from this country.

We can no longer tolerate the huge deficit. The best way to encourage exports is to leave the law as it is. Support the Preyer amendment to the Dornan amendment, and then reject the Preyer amendment as amended.

That is the best way to encourage American firms, especially small firms, to develop export potential.

(By unanimous consent, Mr. VOLKMER yielded his time to Mr. BINGHAM.)

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

(Mr. ZABLOCKI asked and was given permission to revise and extend his remarks.)

Mr. ZABLOCKI. Mr. Chairman, the Subcommittee on International Economic Policy of the Committee on Foreign Affairs, after holding extensive hearings, gave serious consideration to the confidentiality provisions that are contained in this bill. The committee bill solves the existing problem of the court having ruled that the confidentiality provision of the Export Administration Act do not meet the requirements of the Freedom of Information Act. The bill specifies what information should be held confidential.

I urge the members of the committee to support the House version. If they see some concern, certainly the Preyer substitute is far preferable to the Dornan amendment, even if it is modified by the Quayle amendment.

I hope the Members will support the committee.

□ 1210

The CHAIRMAN. The Chair recognizes the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, we have heard about trucks and we know about trucks. Trucks can be made not only in France by Renault, in Italy by Fiat, in Germany by Volkswagen, but also they can be made in Czechoslovakia, and every bus in the Soviet Union is made in Czechoslovakia. Why do we get so many of these contracts despite the competition and the harassment? Because some of the big companies are able to deal with the roadblocks that are put in the way. The smaller companies cannot.

We imported over $106 billion of manufactured goods last year and we exported only $91 billion, and these restrictions are part of the problem. What part of the public is interested in the price and quantity of what has been sold? Competitors. Congress has a right to know if we are concerned about security, but not competitors.

(By unanimous consent, Mr. DANNEMEYER yielded his time to Mr. QUAYLE.)

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. QUAYLE).

Mr. QUAYLE. Mr. Chairman, let me just put in perspective what we have here. We have the Dornan amendment which goes back basically to the law we have today. There are people that are concerned about the law. Bill Simon is concerned, the gentleman from North Carolina (Mr. PREYER) is concerned about it and I am concerned about it.

Next we have the Preyer amendment to the Dornan amendment, which puts a cap on all information that is given to the Department of Commerce concerning exports to June 30, 1980, it puts a lid on it.

I want to direct myself to what is a compromise beteween those two things. We are not after licensing information, we are not after information during the process, we are concerned and interested about historical data. That is why the Quayle amendment says any of this information will not be released until 6 months after the fact.

I do not like to see us get into arguments about whether it is a pro-Soviet or anti-Soviet or proexport or antiexport matter, because what we are talking about here is what kind of a balance we are going to strike between what the people have a right to know and what business has a right to be kept confidential. I want to reiterate that in the Freedom of Information Act today trade secrets are protected. There is no doubt about it. Trade secrets are protected. We are not interested in that.

What my amendment does is to compromise what the Dornan and Preyer amendment goes to, and that is after 6 months we will release information. We will not release parties. Business came to us and said we do not want to give you our list of clients. OK, we will release the countries of the parties.

We will not release price, because that should be kept confidential, and we will not release value.

That is a compromise and it is a compromise from the original version. I think it is a step in the right direction to balance off this thing on the right to know and the right to protect confidentiality.

I must also say as we get into this, and I am sure the gentleman from North Carolina, who has been very active in this area knows, we will take it up under the Freedom of Information Act itself to try to clarify what is a trade secret and what is not a trade secret. This is sort of a piecemeal approach to put this in now. I think the Members ought to support the Quayle amendment which is a balance.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Thank you, Mr. Chairman.

My amendment is consistent with the committee bill as far as export licensing goes. I agree with him absolutely, to pass the Dornan amendment or the Quayle amendment would open up business to great harassment.

Why do we need my amendment at all then? Simply because some shippers are frustrating what is our announced policy in this country about export information. Some West Coast shippers are avoiding that policy, what William Simon said our policy was on information, by tearing the bill of lading off the shipping documents or by mutilating it. My amendment simply provides that all export information will be treated the same all over the country.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, first of all, very briefly on the subject of the interests of the American Jewish Congress, the American Jewish Congress has no objection to the committee bill. Their legitimate problem dealt with the past. There is no quarrel with what we are trying to do here.

As far as the choice between the Preyer substitute and the Dornan amendment is concerned, I think the arguments are overwhelming in favor of the Preyer substitute, and I hope the Preyer substitute will be adopted.

As far as the Quayle amendment to the Dornan amendment is concerned, it is probably an improvement, and in any event, Mr. DORNAN himself has accepted it, so I think that can go on a voice vote.

I would still prefer the committee bill to the Preyer amendment, but mildly, and if the Preyer substitute is adopted, and I assume we will have a record vote on that, I will not ask for a record vote on the final adoption of the Preyer substitute.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. QUAYLE) to the amendment offered by the gentleman from California (Mr. DORNAN).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. PREYER) as a substitute for the amendment offered by the gentleman from California (Mr. DORNAN), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Does the gentleman from Maryland press his point of order?

Mr. BAUMAN. Mr. Chairman, I do.

The CHAIRMAN. Did the gentleman from Maryland press the point of order or withdraw the point of order?

Mr. BAUMAN. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The gentleman from Maryland (Mr. BAUMAN) withdraws his point of order of no quorum.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Maryland (Mr. BAUMAN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 318, noes 29, not voting 87, as follows:

[Roll No. 499]

AYES—318

Abdnor	Beard, R.I.	Brooks
Akaka	Beard, Tenn.	Broomfield
Albosta	Bedell	Brown, Calif.
Alexander	Bellenson	Buchanan
Ambro	Benjamin	Burgener
Anderson, Calif	Bennett	Burlison
Andrews, N.C.	Bereuter	Burton, John
Andrews, N. Dak.	Bevill	Byron
Annunzio	Bingham	Campbell
Anthony	Blanchard	Carr
Applegate	Boggs	Cavanaugh
Archer	Boland	Cheney
Ashley	Bolling	Chisholm
Aspin	Boner	Clay
Atkinson	Bonior	Clinger
Bailey	Bonker	Coelho
Baldus	Bouquard	Coleman
Barnard	Bowen	Conable
Barnes	Brademas	Conte
	Brinkley	Corcoran
	Brodhead	Corman

Courter	Hyde	Pease
D'Amours	Ireland	Perkins
Daniel, Dan	Jeffords	Petri
Daniel, R. W.	Jeffries	Peyser
Danielson	Jenkins	Preyer
Dannemeyer	Jenrette	Price
Davis, Mich.	Johnson, Calif.	Pritchard
Deckard	Jones, N.C.	Rahall
Derrick	Jones, Okla.	Railsback
Derwinski	Jones, Tenn.	Rangel
Devine	Kastenmeier	Ratchford
Dickinson	Kazen	Regula
Dicks	Kildee	Reuss
Dingell	Kindness	Rhodes
Dodd	Kostmayer	Rinaldo
Donnelly	Kramer	Ritter
Drinan	LaFalce	Roberts
Duncan, Tenn.	Lagomarsino	Robinson
Eckhardt	Latta	Roe
Edgar	Leach, Iowa	Rostenkowski
Emery	Leach, La.	Roth
English	Lederer	Roybal
Erdahl	Lehman	Royer
Erlenborn	Leland	Russo
Ertel	Lent	Sabo
Evans, Del.	Levitas	Scheuer
Evans, Ga.	Lloyd	Schroeder
Evans, Ind.	Loeffler	Seiberling
Fary	Long, La.	Sensenbrenner
Fascell	Long, Md.	Shannon
Fenwick	Lott	Sharp
Ferraro	Lowry	Shelby
Findley	Luken	Shumway
Fish	Lundine	Shuster
Fisher	Lungren	Skelton
Fithian	McClory	Slack
Flippo	McCloskey	Smith, Iowa
Florio	McCormack	Smith, Nebr.
Ford, Tenn.	McDade	Snowe
Forsythe	McHugh	Snyder
Fountain	McKay	Solarz
Fowler	McKinney	Spellman
Frenzel	Madigan	Spence
Frost	Maguire	St Germain
Fuqua	Markey	Stack
Garcia	Marks	Staggers
Gephardt	Marlenee	Stangeland
Giaimo	Martin	Stark
Gingrich	Matsui	Steed
Ginn	Mattox	Stewart
Glickman	Mavroules	Stockman
Goldwater	Mazzoli	Stokes
Gonzalez	Mica	Studds
Goodling	Michel	Swift
Gore	Mikulski	Synar
Gradison	Mikva	Tauke
Gramm	Miller, Calif.	Thomas
Grassley	Mineta	Thompson
Gray	Minish	Traxler
Green	Mitchell, Md.	Trible
Grisham	Mitchell, N.Y.	Udall
Guarini	Moakley	Van Deerlin
Gudger	Mollohan	Vander Jagt
Guyer	Montgomery	Vanik
Hagedorn	Moore	Vento
Hall, Ohio	Moorhead, Calif.	Volkmer
Hamilton	Moorhead, Pa.	Walgren
Hance	Mottl	Walker
Harkin	Murphy, Pa.	Watkins
Harris	Murtha	Waxman
Harsha	Myers, Ind.	Weaver
Hawkins	Natcher	Weiss
Heckler	Neal	White
Hefner	Nedzi	Whitehurst
Heftel	Nelson	Whitley
Hillis	Nichols	Whittaker
Hinson	Nolan	Whitten
Holt	Nowak	Wilson, Bob
Holtzman	O'Brien	Wilson, Tex.
Hopkins	Oberstar	Wirth
Horton	Obey	Wright
Howard	Ottinger	Wylie
Hubbard	Panetta	Yates
Huckaby	Patten	Yatron
Hughes	Patterson	Young, Alaska
Hutto		Zablocki

NOES—29

Ashbrook	Hammer-schmidt	Quayle
Bafalis	Hansen	Quillen
Bauman	Ichord	Rudd
Bethune	Kelly	Satterfield
Carney	Kemp	Schulze
Collins, Tex.	Livingston	Solomon
Crane, Daniel	Lujan	Stratton
Crane, Philip	McDonald	Stump
Dornan	Miller, Ohio	Wyatt
Gilman		Young, Fla.

NOT VOTING—87

Addabbo	Edwards, Calif.	Pepper
Anderson, Ill.	Edwards, Okla.	Pickle
AuCoin	Fazio	Pursell
Badham	Flood	Richmond
Biaggi	Foley	Rodino
Breaux	Ford, Mich.	Rose
Brown, Ohio	Gaydos	Rosenthal
Broyhill	Gibbons	Rousselot
Burton, Phillip	Hall, Tex.	Runnels
Butler	Hanley	Santini
Carter	Hightower	Sawyer
Chappell	Holland	Sebelius
Clausen	Hollenbeck	Simon
Cleveland	Jacobs	Stanton
Collins, Ill.	Johnson, Colo.	Stenholm
Conyers	Kogovsek	Symms
Cotter	Leath, Tex.	Taylor
Coughlin	Lee	Treen
Daschle	Lewis	Ullman
Davis, S.C.	McEwen	Wampler
de la Garza	Marriott	Williams, Mont.
Dellums	Mathis	Williams, Ohio
Diggs	Moffett	Wilson, C. H.
Dixon	Murphy, Ill.	Winn
Dougherty	Murphy, N.Y.	Wolff
Downey	Myers, Pa.	Wolpe
Duncan, Oreg.	Oakar	Wydler
Early	Pashayan	Young, Mo.
Edwards, Ala	Paul	Zeferetti

□ 1230

Messrs. SATTERFIELD, STRATTON, SOLOMON, LIVINGSTON, and COLLINS of Texas changed their votes from "aye" to "no."

So the amendment offered as a substitute for the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DORNAN), as amended.

The amendment, as amended, was agreed to.

The Clerk will read.

The Clerk read as follows:

REPORT TO CONGRESS

SEC. 115. Section 14 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended to read as follows:

"ANNUAL REPORT

"SEC. 14. Not later than December 31 of each year, the Secretary shall submit to the Congress a report on the administration of this Act during the preceding fiscal year. All agencies shall cooperate fully with the Secretary in providing information for such report. Such report shall include detailed information with respect to—

"(1) the implementation of the policies set forth in section 3;

"(2) general licensing activities under sections 5, 6, and 7;

"(3) actions taken in compliance with section 5(c)(3);

"(4) changes in categories of items under export control referred to in section 5(e);

"(5) the operation of the indexing system under section 5(g);

"(6) determinations of foreign availability made under section 5(f), the criteria used to make such determinations, the removal of any export controls under such section, and any evidence demonstrating a need to impose export controls for national security purposes notwithstanding foreign availability;

"(7) consultations with the technical advisory committees established pursuant to section 5(h), the use made of the advice rendered by such committees, and the contributions of such committees toward implementing the policies set forth in this Act;

"(8) changes in policies toward individual countries under section 6(b);

"(9) actions taken to cary out section 5(d);

"(10) the effectiveness of export controls imposed under section 6 in furthering the foreign policy of the United States;

"(11) the implementation of section 8;

"(12) export controls and monitoring under section 7;

"(13) organizational and procedural changes undertaken to increase the efficiency of the export licensing process and to fulfill the requirements of section 10, including an analysis of the time required to process license applications and an accounting of appeals received, court orders issued, and actions taken pursuant thereto under subsection (1) of such section; and

"(14) violations under section 11 and enforcement activities under section 12.".

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that section 115 be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. Are there amendments to section 115?

If not, the Clerk will read.

The Clerk read as follows:

RULES AND REGULATIONS

SEC. 116. The Export Administration Act of 1969 is amended by inserting after section 14, as redesignated by section 104(a) of this Act, the following new section:

"REGULATORY AUTHORITY

"SEC. 15. The President and the Secretary may issue such rules and regulations as are necessary to carry out the provisions of this Act. Any such rules or regulations issued to carry out the provisions of section 5(a), 6(a), 7(a), or 8(b) may apply to the financing, transporting, or other servicing of exports and the participation therein by any person.".

The CHAIRMAN pro tempore. Are there amendments to section 116?

If not, the Clerk will read.

The Clerk read as follows:

DEFINITION

SEC. 117. Section 16 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended—

(1) in paragraph (1) by striking out "and" after the semicolon;

(2) in paragraph (2) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(3) the term 'Secretary' means the Secretary of Commerce.".

EFFECT ON OTHER ACTS

SEC. 118. (a) Section 17 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended in subsection (b) by striking out "section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934)" and inserting in lieu thereof "section 38 of the Arms Export Control Act (22 U.S.C. 2778)".

(b) Effective October 1, 1979, the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611–1613d) is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 119. Section 18 of the Export Administration Act of 1969, as redesignated by sec-

tion 104(a) of this Act, is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 18. (a) REQUIREMENT OF AUTHORIZING LEGISLATION.—Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act unless previously and specifically authorized by law.

"(b) AUTHORIZATION.—(1) There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act $7,070,000 for the fiscal year 1980 and $7,777,000 for the fiscal year 1981 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs).

"(2) Of the funds appropriated to the Department of State for the fiscal year 1980, the Secretary of State may use such amounts as may be necessary to carry out the provisions of section 5(k) of this Act.".

TERMINATION DATE

SEC. 120. Section 20 of the Export Administration Act of 1969, as redesignated by section 104(a) of this Act, is amended by striking out "1979" and inserting in lieu thereof "1983".

TECHNICAL AMENDMENTS

SEC. 121. (a) For purposes of this section, an amendment which is expressed in terms of an amendment to a section or other provision, shall be considered to be a section, as redesignated by section 104(a) of this Act, or other provision of the Export Administration Act of 1969.

(b) Section 7 is amended—

(1) in the section heading by striking out "AUTHORITY" and inserting in lieu thereof "OTHER CONTROLS";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting "(2)(C)" immediately after "section 3" the first time it appears,

(ii) by striking out "articles, materials, or supplies, including technical data on any other information," and inserting in lieu thereof "goods",

(iii) by striking out "articles, materials, or supplies" and inserting in lieu thereof "goods", and

(iv) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(B) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy stated in section 3(2)(C) of this Act, the Secretary shall include in a notice published in the Federal Register with respect to such restrictions an invitation to all interested parties to submit written comments within fifteen days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking out "(A)" and inserting in lieu thereof "(C)",

(ii) by striking out "of Commerce",

(iii) by striking out "7(c)" and inserting in lieu thereof "12(c)", and

(iv) by striking out "article, material, or supply" and inserting in lieu thereof "goods";

(B) in paragraph (2) by striking out "each article, material, or supply" and inserting in lieu thereof "any goods"; and

(C) by adding at the end thereof the following new paragraph:

"(3) The Secretary shall consult with the Secretary of Energy to determine whether monitoring under this subsection is warranted with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.";

(4) in subsection (f)—

(A) in paragraph (1) by striking out "(B) or (C)" and inserting in lieu thereof "(A) or (B)";

(B) in paragraph (2)—

(i) by striking out "of Commerce" each place it appears, and

(ii) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(C) in paragraph (3) by striking out "clause (A) or (B) of paragraph (2)" and inserting in lieu thereof "paragraph (2)(C)";

(5) in subsection (i) by striking out "(A)" and inserting in lieu thereof "(C)";

(6) in subsection (j)—

(A) by striking out "(A)" and inserting in lieu thereof "(C)"; and

(B) by striking out "of Commerce" each place it appears; and

(7) by striking out subsections (a), (d), (e), (g), (h), and (k), and redesignating subsections (b), (c), (f), (i), (j), (l), subsection (m), as added by section 6(d)(2) of the International Security Assistance Act of 1978, and subsection (n), as added by section 109 of this Act, as subsections (a), (b), (c), (d), (e), (f), (g), and (h), respectively.

(c) Section 8 is amended—

(1) in paragraphs (1)(D) and (5) of subsection (a) by striking out "of Commerce"; and

(2) in subsection (b)—

(A) in paragraph (1) by striking out "4(b)" and inserting in lieu thereof "6(a)"; and

(B) in paragraph (2) by striking out "of Commerce" each place it appears.

(d) Section 9 is amended—

(1) by striking out "of Commerce" each place it appears; and

(2) by striking out "commodity" each place it appears and inserting in lieu thereof "good".

(e) Subsection (c)(2) of section 11 is amended by striking out "4A" each place it appears and inserting in lieu thereof "8".

(f) Section 12 is amended—

(1) in subsection (b) by striking out "the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46)" and inserting in lieu thereof "section 6002 of title 18, United States Code";

(2) in subsection (c)—

(A) by striking out "4A" and inserting in lieu thereof "8";

(B) by striking out "6" and inserting in lieu thereof "11"; and

(C) by striking out "section 4(b)" and inserting in lieu thereof "this Act";

(3) in subsection (d)—

(A) by striking out "quarterly"; and

(B) by striking out "10" and inserting in lieu thereof "14"; and

(4) in subsection (e)—

(A) by striking out "of Commerce";

(B) by striking out "(c)" and inserting in lieu thereof "(h)";

(C) by striking out "articles, materials, and supplies" and inserting in lieu thereof "goods and technology"; and

(D) by striking out the last two sentences and inserting in lieu thereof the following: "The Secretary shall include, in the annual report required by section 14 of this Act, actions taken on the basis of such review to simplify such rules and regulations.".

(g) Section 13 is amended by striking out "6" and inserting in lieu thereof "11".

TECHNICAL AMENDMENTS TO OTHER ACTS

SEC. 122. (a) Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) is amended by striking out "sections 6 (c), (d), (e), and (f) and 7 (a) and (c) of the Export Administration Act of 1969" and inserting in lieu thereof "subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1969, and by subsections (a) and (c) of section 12 of such Act".

(b)(1) Section 103(c) of the Energy Policy and Conservation Act (42 U.S.C. 6212(c)) is amended by striking out "(A)" each place it appears and inserting in lieu thereof "(C)".

(2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3)) is amended—

(A) by striking out "7" and inserting in lieu thereof "12"; and

(B) by striking out "(50 App. U.S.C. 2406".

(c) Section 993(c)(2)(D) of the Internal Revenue Code of 1954 (26 U.S.C. 993(c)(2)(D)) is amended—

(1) by striking out "4(b)" and inserting in lieu thereof "7(a)";

(2) by striking out "(50 U.S.C. App. 2403(b))"; and

(3) by striking out "(A)" and inserting in lieu thereof "(C)".

SAVINGS PROVISIONS

SEC. 123. (a) All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under the Export Control Act of 1949 or the Export Administration Act of 1969 and which are in effect at the time this Act takes effect shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act or the amendments made by this Act.

(b) This Act and the amendments made by this Act shall not apply to any administrative proceedings commenced or any application for a license made, under the Export Administration Act of 1969, which is pending at the time this Act takes effect.

(c) This Act and the amendments made by this Act shall not affect any investigation, suit, action, or other judicial proceeding commenced under the Export Administration Act of 1969, or under section 552 of title 5, United States Code, which is pending at the time this Act takes effect; but such investigation, suit, action, or proceeding shall be continued as if this Act had not been enacted.

EFFECTIVE DATE

SEC. 124. (a) Except as provided in subsection (b), this title and the amendments made by this title shall take effect on October 1, 1979.

(b) The amendments made by sections 107 and 108 of this Act shall take effect on the date of enactment of this Act.

TITLE II—INTERNATIONAL INVESTMENT SURVEY ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Section 9 of the International Investment Survey Act of 1976 (90 Stat. 2059) is amended to read as follows:

"SEC. 9. To carry out this Act, there are authorized to be appropriated $4,400,000 for the fiscal year ending September 30, 1980, and $4,500,000 for the fiscal year ending September 30, 1981.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1979.

Mr. BINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York (Mr. BINGHAM)?

There was no objection.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: Page 63, immediately after line 6, insert the following new section:

DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY

SEC. 127. Section 5 of the Export Administration Act of 1969, as added by section 104(b) of this Act, is amended by adding at the end thereof the following new subsection:

"(1) DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY.—(1) Whenever there is reliable evidence that goods or technology, which were exported subject to national security controls under this section to a country to which exports are controlled for national security purposes, have been diverted to significant military use, the Secretary shall, for as long as that diversion to significant military use continues—

"(A) deny all further exports to the party responsible for that diversion of any goods or technology subject to national security controls under this section which contribute to that particular military use, regardless of whether such goods or technology are available to that country from sources outside the United States; and

"(B) take such additional steps under this Act as are necessary to prevent the further military use of the previously exported goods or technology.

"(2) As used in this subsection, the terms 'diversion to significant military use' and 'significant military use' include, but are not limited to, the use of goods or technology in the design or production of any item on the United States Munitions List.".

Mr. MILLER of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio (Mr. MILLER)?

There was no objection.

(Mr. MILLER of Ohio asked and was given permission to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Chairman, there is one important item missing from this act which must be corrected. The item concerns what the administration should do once a determination has been made that a military diversion has taken place by a country to which we are controlling exports for national security reasons.

This amendment would require the President to stop any further export of American goods or services to the particular project or plant which is producing the item on the U.S. munitions control list.

The need for this amendment can be easily recognized through the Kama River truck plant episode. Whether there were adequate "safeguards" or "end-use" statements in place should not be the focus of attention at this stage of the game.

The fact is—

The plant is in existence;

It was built in large part with American technology and equipment; and

It is producing military vehicles not only for Soviet use, but for the Warsaw Pact as well.

Therefore, the question now confronting us is what should America do today? Not what we should have done yesterday. Are we going to continue the export of spare parts and technical expertise to keep the plant in operation? If we do, we are very foolish.

This amendment seeks to clarify U.S. policy once a diversion has occurred.

All we are saying with this amendment is that if by chance the "safe guards" and "end-use" statements fail; if by chance we made a mistake by transferring the technology—and that it can be shown that the Soviets are using the exports for military purposes—then we must stop the further flow of goods and services which will contribute or support the diversion.

We cannot abdicate our responsibility by saying, "the previous administration is responsible for this military truck plant in the Soviet Union; it is too late now; the water is over the dam, and we should therefore continue to ship them the spare parts and technical advice they need to keep the plant in operation." That attitude is ridiculous. Why should we aid in continued diversion?

The arguments can be raised, "won't the French or Germans come in and supply the technical expertise and material to keep the plant going?" I do not think so. Once the President learns that a diversion has taken place. He should immediately go to our allies and say—"we made a mistake, we did not think the Russians would use this export for military purposes. They breached the understanding. Therefore, we are going to cancel all existing license agreements and to the best of our ability, we will try to prevent the export of spare parts and technical advice they need to run the plant. Can we count on your help?"

I have faith that our allies will listen to such a plea, and work with us to keep the West strong.

If they choose to undercut us, they are only hurting themselves, because one day the Warsaw Pact nations may decide to challenge NATO with superior military strength. The cause for such a confrontation will be in large part their doing.

Mr. Chairman, why should the United States have a munitions control list to prevent the export of military hardware to countries deemed as potential adversaries—if we turn right around and transfer the technology and equipment needed to produce the very items we are trying to keep from falling in the hands of these nations?

If we are going to build the Soviet Union a truck plant to assist in the production of military troops transport vehicles, armored personnel carriers, and tank turrets, why not scrap the munitions list, and sell them the equipment directly?

If the Soviets choose to divert U.S. technology for their military—let us call the deal off. That is the least we can do.

Mr. Chairman, I believe we should take a few minutes and define some of the terms used in this amendment so that there will be no misunderstanding of its original intent when the Commerce Department implements it.

By "reliable evidence that goods or technology have been diverted," we mean when the administration has reason to believe that a diversion is taking place. It does not mean the administration must sit back and wait for some third party to bring in the absolute proof that a diversion has taken place. When dealing with national security issues and with nations like the U.S.S.R., there is rarely absolute proof of anything. The administration must act on those items it has reason to believe are being used for military purposes. As a result, American intelligence agencies must aggressively investigate any allegations that a diversion is taking place. In addition, they must have the attitude that when dealing with Communist nations—if technology can be diverted for military use, it will be.

The term "significant military use" is at least tied to the munitions list. There may be other items not specifically on the U.S. munitions list that need to be controlled for national security reasons. Law enforcement and intelligence gathering equipment could be examples of such items. Items on the "critical technology list" currently being developed within the Department of Defense will probably be added to the list of items we do not want the Soviet Union producing with U.S. technology and support services. As a result, the administration must be given the flexibility to broaden the definition of "significant military use" beyond the items on the U.S. munitions list.

The term "diversion" does not necessarily have to be connected with the use of "safeguards" and "end-use" statements. Because of the Miller "safeguard" amendment overwhelmingly accepted by this body—271 to 138—on Tuesday, September 11, license applications to potential adversaries cannot be approved on the basis of "safeguards" or on the assumption that "end-use" statements will be followed. We must still assume that if it can be diverted, it will be diverted. Therefore, the United States should not export the goods or technology. However, the Soviets are very good at using American civilian technology for military purposes. This amendment is needed to protect U.S. national security on those items we exported where we did not realize that it could be diverted for military use by a potential adversary.

The very nature of the Export Administration Act we are amending today defines that we are dealing with dual-use technologies, and that the United States would not export goods or technology which could be used in the design or production of items on our munitions list. So, if for example, the Soviet Union is using the Kama River truck plant to produce military vehicles—or "civilian" vehicles later diverted for direct military use, that is, rocket launchers, troop transport carriers, et cetera—it can be said that a diversion has taken place—regardless of the presence of "end-use" statements or "safeguard" arrangements.

Finally, this amendment does not limit the President on additional actions he chooses to take in dealing with governments like the Kremlin. This amendment is only the bottom line. If he knows of a diversion, his administration must act.

He can do more than the amendment requires, but he must meet this bottom line.

Mr. Chairman, I believe that this is a constructive amendment which will greatly improve the bill. I urge that it be accepted. Thank you.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I wish we could debate this amendment and discuss it but it would take some time to do so. Under the circumstances, since we only had this amendment given to us fairly recently, I will not object to it. I think it may require some clarification in conference, but at this point I am pleased to accept the amendment.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, on behalf of the minority, I accept the amendment with the same caveat expressed by the gentleman from New York.

Mr. BINGHAM. It may require some clarification in conference.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman from California, and I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. MOAKLEY

Mr. MOAKLEY. Mr. Chairman, I offer a series of amendments, and ask unanimous consent that they be considered en block.

There is one substantive amendment but it necessitates five technical amendments.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts (Mr. MOAKLEY)?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. MOAKLEY: Page 55, insert the following after line 19 and redesignate subsequent sections accordingly:

REFINED PETROLEUM PRODUCTS

SEC. 121. Section 7 of the Export Administration Act of 1969, as amended by section 109 of this Act, is amended by adding at the end thereof the following new subsection:

"(o)(1) No refined petroleum product or residual fuel oil may be exported except pursuant to an export license specifically authorizing such export. Not later than five days after an application for a license to export any refined petroleum product or residual fuel oil is received, the Secretary shall notify the Congress of such application, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export. Such notification shall be referred to a committee of appropriate jurisdiction in each House of Congress.

"(2) The Secretary may grant such license if, within five days after notification to the Congress under paragraph (1) is received, a meeting of either committee of Congress to which the notification was referred under paragraph (1) has not been called, with respect to the proposed export, (A) by the chairman of the committee, (B) at the request in writing of a majority of the members of the committee, or (C) at the request of the Speaker of the House of Representatives or the Majority Leader of the Senate. Any such meeting shall be held within 10 days after notification to the Congress under paragraph (1) is received. If such a meeting is so called and held, the Secretary may not grant the license until after the meeting.

"(3) If, at any meeting of a committee called and held as provided in paragraph (2), the committee by a majority vote, a quorum being present, requests 30 days, beginning on the date of the meeting, for the purpose of taking legislative action with respect to the proposed export, the Secretary may not grant the license during such 30-day period.

"(4) Notwithstanding the provisions of paragraph (2) and (3) of this subsection, the Secretary may, after notifying the Congress of an application for an export license pursuant to paragraph (1), grant the license if the Secretary certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that the proposed export is vital to the national interest and that a delay will cause irreparable harm.

"(5) At the time the Secretary grants any license to which this subsection applies, the Secretary shall so notify the Congress, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export.

"(6) This subsection shall not apply to (A) any export license application for exports to a country with respect to which historical export quotas established by the Secretary on the basis of past trading relationships apply, or (B) any license application for exports to a country if exports under the license would not result in more than 250,000 barrels of refined petroleum products and residual fuel oil being exported from the United States to such country in any fiscal year.

"(7) For purposes of this subsection, 'refined petroleum product' means gasoline, kerosene, distillates, propane or butane gas, or diesel fuel.

"(8) The Secretary may extend any time period prescribed in section 10 of this Act to the extent necessary to take into account delays in action by the Secretary on a license application on account of the provisions of this subsection."

Page 59, line 1, strike out "and".

Page 59, line 2, insert after "Act," the following: "and subsection (o), as added by section 121 of this Act,".

Mr. MOAKLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

Th CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

□ 1240

(Mr. MOAKLEY asked and was given permission to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Chairman, during the August recess, the Department of Commerce granted export licenses for the sale of $47 million worth of petroleum products to Iran. There was much public outcry over this sale, and I was active in this protect.

I would like to point out that my objection has not been raised because I want to stop aid from going to the people of Iran, nor have I been protesting an action that may ultimately be in the best interests of this country. Rather, my objections were prompted by the fact that this oil was shipped with no advance notice to the Congress at a time when our own citizens are concerned that they may be facing serious shortages of home heating oil this winter.

In fact, Mr. Chairman, just let me explain for a moment the particular situation in which I found myself when the announcement of the export to Iran was made. The original target date put out by the Energy Department for the time at which we were to have sufficient heating oil stockpiled had already slipped by a full month. I was home in my district telling senior citizens that they would most likely be faced with lower temperatures in their homes this winter, telling housing projects that they might well have to take the risk of maintaining only 20 percent supply of heating oil in their tanks—which may cause the sediment to start flowing through the pipes and may cause the furnaces to shut down—and telling everyone that they would have to make the maximum effort to conserve.

It was clear that things could well be very serious this winter for many people, particularly the elderly and the poor. Then, all of a sudden, the Energy Department announced that we had plenty of home heating oil and were, in fact, shipping some of it to Iran.

Mr. Chairman, the people in my district and throughout the northeast were deeply concerned about that action. We have received a great many conflicting reports from the Department of Energy. It is not at all certain that we are going to have sufficient home heating oil this winter. Energy experts from across the country are doubting whether supplies will be sufficient this winter, particularly if this winter follows the recent pattern of severe cold temperatures. A Small Business subcommittee staff report that was recently issued expressed grave doubts about supplies because, even if we meet the Energy Department goal for primary storage, the amounts of oil at the secondary and tertiary level—the retailers and the consumers—are unseasonably low. The overall situation is still not good.

And, even if we do manage to squeak by with enough, Mr. Chairman, the prices people will be paying are astoundingly high—much higher in most instances than the price Iran paid for the amount they received. As Deputy Energy Secretary O'Leary testified a short while ago, people may literally be faced this winter with a choice between heat for their homes and food.

When there is that kind of domestic impact involved, Mr. Chairman, it seems imperative to have export decisions like the Iranian one subject to congressional scrutiny—not necessarily to bar exports, but to insure that they do not threaten our own national interests. The amendment I now offer seeks to remedy this situation and allow for an open review of a few major energy export decisions with the potential for this kind of impact.

First, by major export decisions I mean

two things: One is that the export would have to be going to a country with which we do not ordinarily trade in refined petroleum products, or the export would have to be significantly greater than usual. Exempt from coverage under this amendment will be all our usual trading partners, like Canada, Mexico, and the countries of the Caribbean. The other provision is that this amendment will apply only to exports that would involve sending more than 250,000 barrels of refined petroleum or residual fuel oil annually to any one country. Here again, the vast majority of our usual, routine, day-to-day transactions will be exempt from the requirements of this amendment.

In those few instances, however, in which a relatively large amount of refined petroleum is going to a country to which we do not ordinarily export such amounts, the amendment requires that the Department of Commerce, after receiving a request for an export license, notify the appropriate committee of each House of Congress of the name of the exporter, the destination of the proposed export and the amount and price of the proposed export.

Once the appropriate committees have received such notification, the amendment gives 5 days for a hearing to be called in either committee in regard to the proposed export, if they feel the proposal is significant enough and serious enough to warrant review. If a meeting were called, either committee would have 10 days—that is a total of 10 days from the time of notification—in which to actually hold a hearing. In all but the most indefensible instances, the maximum delay imposed by this amendment would be 10 days from the time the Department of Commerce received the export application.

This amendment, Mr. Chairman, is drawn as carefully as possible to provide congressional review in a few important instances without in any way adversely affecting the great majority of transactions between this country and our trading partners. I recognize, however, that even as moderate as this amendment is, it might still possibly be necessary in an emergency (such as an outbreak of hostilities in the Middle East) to forego any congressional review. As a result, there is one final provision in this amendment, one final measure of flexibility. It is that the Secretary of Commerce can waive any review—even the initial 5 days—by deeming the export vital to the national interest and certifying that delay would cause irreparable harm. This would pave the way for immediate export.

In summary, Mr. Chairman, let me emphasize that my amendment does not seek to stop future energy exports, nor does it try to tie the hands of the Commerce Department or of the energy exporting companies in dealings in foreign trade. It is specifically designed not to affect any routine transactions.

Rather, it seeks to insure a congressional voice in a few unique instances in which the Departments of Commerce, Energy, and State are making rather radical departures from our usual trading patterns, in transactions that involve relatively large amounts of refined petroleum products. In that limited number of cases, Congress should have at least a few days to review the decisions of those agencies—decisions that are affecting the lives and well-being of a great many of our constituents.

This is a most reasonable approach, Mr. Chairman, and I urge the support of my colleagues for this important amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I would be glad to yield to the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, the gentleman's amendments refer to past historical quotas based on past trading relations. Am I correct in my interpretation that means existing trading partners will not have to worry about the reliability of the United States as a supplier of refined oil products?

Mr. MOAKLEY. The gentleman is correct.

Mr. LAGOMARSINO. Mr. Chairman, I believe the gentleman's amendments are very useful. For one thing, it will help to lay to rest the mistaken notion that it comes out of ordinary exports of oil products that are happening all the time.

Mr. Chairman, on behalf of the minority we accept the amendments.

Mr. BEARD of Rhode Island. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Rhode Island.

Mr. BEARD of Rhode Island. Mr. Chairman, I would like to go on record as supporting the gentleman from Massachusetts on his amendments.

Mr. MOAKLEY. Mr. Chairman, I yield to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Chairman, I thank the gentleman for yielding.

I would like to commend the gentleman from Massachusetts for this amendment. I think it is an excellent one.

The whole situation points up the inadequacy of the Carter administration in terms of its understanding of how Americans, ordinary Americans, respond to problems in the energy field. The gentleman's amendment is a constructive step toward overcoming or at least bypassing that inadequacy. I do commend the gentleman for his effort.

Mr. MOAKLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Massachusetts (Mr. MOAKLEY).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Page 63, insert the following after line 6:

(c) Regulations implementing the provisions of section 10 of the Export Administration Act of 1969, as added by section 104(c) of this Act, shall be issued and take effect not later than July 1, 1980.

Mr. BINGHAM. Mr. Chairman, the Members will recall that this section provides somewhat complicated procedures for imposing deadlines on the various stages of the export administration process. The amendment would give the administration 9 months in which to bring those procedures into effect. We believe they are doing this administratively today. They are working out those procedures. I think the 9 months is necessary for them to get into line. Otherwise, they would have to impose these procedures by October 1, which is the date the bill otherwise would take effect.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I commend the gentleman for offering this amendment. I think it is an improvement to the bill and will take care of some problems.

I accept it on behalf of the minority.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ZABLOCKI

Mr. ZABLOCKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ZABLOCKI: Page 63, after line 18, insert the following:

TITLE III—MISCELLANEOUS

SEC. 301. Section 402 of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting "or beer" in the second sentence immediately after "wine".

(Mr. ZABLOCKI asked and was given permission to revise and extend his remarks.)

Mr. ZABLOCKI. Mr. Chairman, this amendment is designed to correct an inequity in present law which discriminates against beer as one America's export items.

The situation arises from the current wording of section 402 of Public Law 84-480, the Agricultural Trade Development and Assistance Act of 1954. This act is the authorizing legislation for the U.S. Department of Agriculture's overseas market development program.

Section 402 states that the term "agricultural commodity" under that act shall not include alcoholic beverages. Section 402 goes on to exempt wine from this prohibition, by providing that the U.S. wine industry can take part in market development activities financed by local currencies under this law which was designed to promote American agricultural export sales.

Thus, under present law, while American wines can be exhibited at USDA shows abroad, American beers cannot, notwithstanding that other nations have their competing export beers on display. Indeed, if it were a U.S. Commerce Department exhibit, American beers could be included; but not with the Agriculture Department.

So we have a self-defeating situation such as occurred at a recent Harumi Pier International Food Show in Tokyo,

where there were at least a dozen West German, Australian, and Dutch beers displayed, but none from the United States of America.

My amendment would remove the discrimination in the present law by putting American beer exporters on the same basis as wine.

Mr. Chairman, I am of course particularly interested in removing this legal discrimination because of my desire to help Wisconsin's agricultural exports. Beer is an important product of my State. I also happen to think we produce the world's best.

It is important to our State's economy. Some 10,000 workers are employed in the brewing industry in Wisconsin. It is a billion dollar industry in our State. It is of course an important contributor to economies in other States.

At this time of recession at home and big deficits in our foreign trade, it is incumbent upon us to do what we can to increase American sales abroad.

The Secretary of Agriculture, the Honorable Bob Bergland, supports this amendment in the interest of American farmers. The Wisconsin State AFL–CIO and the State Brewers Association support it. The Office of Management and Budget have indicated no objection to it. It does not involve any expenditure of taxpayers' funds.

I ask unanimous consent to include in my remarks, letters of support from Secretary Bergland and from the Wisconsin Secretary of Agriculture, Trade and Consumer Protection, the Honorable Gary Rhode.

I urge adoption of this amendment.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., September 11, 1979.

Hon. CLEMENT J. ZABLOCKI,
Chairman, Commission on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for a report on a proposed amendment to H.R. 4034, the purpose of which would be to allow beer to be among the items included in U.S. Department of Agriculture export promotion exhibits abroad.

As we understand the amendment, it would add the words "or beer" in the second sentence immediately following the word "wine" in Section 402 of the Agricultural Trade Development and Assistance Act of 1954.

The Department favors enactment of the amendment.

The omission of beer from those products eligible for export promotion assistance discriminates against beer produced in the United States. We favor increased exports of American agricultural commodities, and beer is an important product made from our farm products.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the President's program.

Sincerely,

BOB BERGLAND,
Secretary.

STATE OF WISCONSIN,
May 17, 1979.

Hon. CLEMENT J. ZABLOCKI,
U.S. House of Representatives,
Rayburn House Office Bldg.,
Washington, D.C.

DEAR REPRESENTATIVE ZABLOCKI: Our department has been intensifying its efforts over the last few years to increase Wisconsin agricultural exports. We work with producers of raw agricultural commodities, as well as suppliers of processed food and beverage products.

We have found that the American Food Exhibits sponsored by the Foreign Agricultural Service of the U.S. Department of Agriculture (FAS/USDA) are a useful forum in which to introduce and promote Wisconsin food products before an international audience. Unfortunately, the members of one of our most important industries, Wisconsin's beer brewing companies, are precluded by law from showing their products at these exhibits.

Public Law 89–808, approved in November 1966, amended P.L. 84–480, the authorizing legislation for the overseas market development program for FAS/USDA. Section 402 of the 1966 legislation read in part: "The term 'agricultural commodity' shall not include alcoholic beverages . . .".

In 1971, P.L. 92–42 amended section 402, releasing the prohibition for domestic wine prodoucers. This was accomplished through the efforts of the California wine producers. The prohibition, however, remains in effect for beer.

The inability of Wisconsin's brewers to display their products at these overseas trade shows puts them at a great disadvantage relative to beer producers from other countries. For example, at the recent Harumi Pier International Food Show in Tokyo, Japan, there were at least a dozen West German, Australian, and Dutch beers displayed. There were no American beers on display in the U.S. exhibit.

Wisconsin's beer industry is a major component of our state's economy. Approximately 10,000 people are directly employed by local brewing companies, which generate a total annual revenue of almost one billion dollars. Of course, the wider effect on the economy can be imagined when one considers all the other Wisconsin companies that supply and service the brewing industry. The prohibition of beer at government-sponsored international food shows appears to be unique to the United States at this time, as evidenced by the plethora of foreign beers seen on display overseas. Even U.S. wine is not so hindered in its international marketing efforts.

We feel that it would be of benefit for the Wisconsin beer industry, the farmers who provide the raw materials for the brewing process, and the state's economy in general for this law to be amended further so as to allow Wisconsin beer to gain greater international exposure. We would like to urge you to study this legislation with the prospect of altering the inequity that allows U.S. wine to be displayed at USDA shows, while our beer is not. Such a change would not only be in the best interest of fair competition, but also would stimulate growth in the important Wisconsin brewing sector.

At a time when our national balance of trade is in deficit, State and Federal governments must make every attempt to remove regulations that unnecessarily impede the expansion of exports. There is considerable interest in Wisconsin for an amendment that would allow beer to be shown at USDA shows, including the Wisconsin State Brewers Association and the Wisconsin State AFL–CIO.

We would be pleased to assist you in any way with regard to this issue. Thank you for your kind attention.

Sincerely,

GARY E. RHODE,
Secretary.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I am happy to concur in the gentleman's amendment.

Mr. ZABLOCKI. I rest my case, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

The amendment was agreed to.

Mr. BINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, just to lay out the procedure, we have 15 more minutes. We can conclude the consideration of this bill with a record vote on the gentleman's amendment to start at 1 o'clock. I see no reason for a recorded vote on final passage.

Mr. ASHBROOK. Mr. Chairman, just a minute.

Mr. BINGHAM. Mr. Chairman, the gentleman may really be fouling us up here. The final passage of the bill is not controversial.

Mr. ASHBROOK. Wait a second. What did the gentleman mean, we will be fouling it up, by orderly legislative process?

The CHAIRMAN. Regular order will be observed.

Mr. BINGHAM. I tried to explain before. We have been trying desperately to finish this bill today. I am just asking for consideration. If anyone wants to vote against final passage of the bill, wants to call for a record vote, that is their intention.

I wanted to explain to the gentleman from California (Mr. DANNEMEYER) that I felt the gentleman's amendment could be dealt with. The gentleman would have the full 5 minutes to present it.

Others can present their remarks and revise and extend and start that record vote at 1 o'clock and then the Members can leave. If Members wish to call for a recorded vote on final passage and wish to do so, that is their privilege.

Mr. DANNEMEYER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1250

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Are there any further amendments?

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 62 after line 24 add the following new section and renumber the succeeding sections accordingly.

SEC. 124. Notwithstanding any other provision of this Act subsection (1) of section 7

of the Export Administration Act of 1969 as such section is redesignated by section 104(a) of the Act, is amended—

(1) in paragraph (1)—

(A) by striking out clause (A) and inserting in lieu thereof the following: "(A) is exported to another country in exchange for the same quantity of crude oil being exported from an adjacent foreign country to the United States, or", and

(B) by striking out "during the 2-year period beginning on the date of enactment of this subsection"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

"(A) the President makes and publishes express findings that exports of such crude oil, including exchanges—

"(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

"(ii) will, within three months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refineries which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil which is exported, and (II) commensurately reduced wholesale and retail prices of products refined from such imported crude oil;

"(iii) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

"(iv) are clearly necessary to protect the national interest; and

"(v) are in accordance with the provisions of this Act; and

"(B) the President reports such findings to the Congress and the Congress, within sixty days thereafter, passes a concurrent resolution approving such exports on the basis of the findings.

Findings of lower costs and prices described in subparagraph (A)(ii) should be audited and verified by the General Accounting Office at least semiannually.

"(3) Notwithstanding any other provision of this section and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil otherwise subject to this subsection to any nation pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before May 1, 1979.

"(4) The limitations of this subsection, and the requirement contained in subsection (u) of section 28 of the Mineral Leasing Act of 1920 that the President make certain findings, shall be effective only during a period in which, as determined by the President, the major oil exporting countries have imposed severe restrictions on the export of oil to the United States.".

Mr. DANNEMEYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANNEMEYER. Mr. Chairman, I am offering this amendment in an effort to resolve a complication that is interfering with our domestic oil supply situation. Currently, our North Slope Alaskan oil fields are expanding their production in spite of the fact that they presently outproduce the refinery capacity of the closest domestic refining market, the west coast. The consequent higher costs of shipping excess Alaskan crude oil to the gulf coast ports, due to the inability of west coast refineries to accommodate it, represents dollars that could either be used to develop new sources of oil or could be passed along to the consumers in the form of lower prices at the pump.

Ironically, Mexico, which is on its way to becoming a major world supplier of oil, has somewhat the same problem. While the closest markets for its oil, much of which is located in the Gulf of Mexico, are obviously the gulf coast ports of the United States, it may be shipping oil through the Panama Canal to Japan under terms of a proposed agreement. Paradoxically, of course, Japan is a lot closer to Alaska than it is to Mexico.

With the energy shortage being a fact of life, with inflation running at 13 percent and with the easy availability of Mexican oil, limiting ourselves to less oil, or higher prices, or both makes no more sense than it does for Mexico, which needs every peso it can get to promote economic development, to ship oil through a canal and across an ocean when it could ship it just across a gulf.

What would make a whole lot more sense would be for this Congress to reject the idea of a prohibition on Alaskan oil imports so that the way would be clear for a barter arrangement to be worked out between the United States, Japan, and Mexico. The United States could send some of its surplus Alaskan oil, surplus being defined as that amount over and above west coast refinery capacity, to Japan in lieu of Mexican oil and in turn, the Mexicans would send the oil that would otherwise go to Japan, to U.S. gulf coast ports. Oil shipments would be speeded up, hopefully costs would be lessened and the dependence on the Panama Canal, which could always be nationalized and closed now that the United States has surrendered its claim of sovereignty, would be substantially reduced. Furthermore, relations between the United States and Mexico, strained in the aftermath of the President's less than successful recent visit, would stand a good chance of being improved.

So that such a barter arrangement could be worked out, if the parties were willing, my amendment would waive the Alaskan oil export prohibition except when foreign nations impose severe restrictions on the export of oil to the United States. To give my colleagues a better idea of why this is needed and how it would work, let me elaborate for a moment on the remarks I made at the outset.

At present, the North Slope oil fields in Alaska produce 1.2 million barrels of oil per day, a rate of production that will soon rise by 200,000 barrels per day and will ultimately peak at two million barrels per day, the capacity of the trans-Alaska pipeline. From there, one would expect the oil to be shipped to the closest point, the west coast and either refined or piped East. However, west coast refineries can refine only 850,000 barrels a day of crude oil, due to severe environmental restrictions on refinery construction and expansion, and there is no west-to-east pipeline for the shipment of crude oil, so the only way to get Alaskan crude in excess of west coast refinery capacity to the Middle West and Texas is to ship it via the Panama Canal. This, in turn, means that the large oil tankers that bring the oil down from Alaska must offload the oil onto a fleet of small tenders for the canal passage. Thus, the extra cost of shipping has been estimated to add roughly $2 to the price of oil—not an inconsequential sum even in these days of high oil prices.

The Japanese, likewise, are faced with the problem of higher than necessary shipping costs when importing oil from Mexico. Japan imports almost all its oil and is bargaining with the Mexican Government for the importation of crude oil, but Mexico's only point of oil export is on the Gulf of Mexico. Consequently, Mexican oil bound for Japan must transship the Panama Canal just like oil bound for Galveston from Alaska.

The closer proximity of Alaska to Japan, and the fact that oil from Alaska to Japan would not have to go through the canal, has apparently not escaped the attention of the Japanese for they have indicated an interest in buying approximately 300,000 barrels per day of Alaskan crude oil now. This figure also corresponds to the amount Japan may contract to purchase from the Mexican Government. Likewise, this figure is close to the amount of Alaskan oil presently being produced in excess of west coast refinery capacity, so we could easily make a deal with Japan to meet their oil needs and with Mexico to receive the oil that would have been sent to Japan. In this manner, all parties could get their oil more quickly and save some money to boot. The positive effects of this action would either be a reduction in cost of crude oil at the refinery, or an added incentive to production, or a combination of the two. The nature of possible savings at the refinery would be dependent upon market supply conditions from time to time. If there were a crude oil supply shortage, the price would tend to drop the degree it would if there were a condition of oversupply of crude oil to refineries. Transportation cost savings not realized at the refinery or the gas pump would be retained by the suppliers and these additional profits could reasonably be expected to facilitate further exploration and development in the energy field.

The CHAIRMAN. The time of the gentleman from California (Mr. DANNEMEYER) has expired.

Mr. DANNEMEYER. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAILEY. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words;

and I yield to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Chairman, I thank the gentleman from New York (Mr. BINGHAM) for his courtesy.

Mr. Chairman, this amendment can have far-reaching positive effects on our balance of trade position regarding both Japan and Mexico. In 1977 our balance-of-trade deficit with Japan was approximately $8.1 billion. If we were to export the majority of our current surplus ANS oil (300,000 barrels per day) at $20 per barrel we could reduce this deficit by $2.19 billion. In 1977 Mexico had a trade deficit with the United States in the amount of $121 million. The purchase of additional Mexican crude oil could create a positive trade balance with Mexico that could help facilitate industrialization in a nation that cannot employ its people. Such industrialization represents a long term solution to the problems of unemployment and illegal immigration to the United States that has plagued United States-Mexico relations for so long. The benefits from this facet of this amendment bear careful consideration by the House in view of their significant foreign policy and economic implications.

My amendment proposes that export of Alaskan crude oil be permitted only when a barter arrangement may be worked out with a contiguous foreign nation. This guarantees that export of crude oil will not result in a net loss of oil to the nation, but will insure faster more economical deliveries. The reference to a contiguous foreign nation narrows the applicability of this provision, but it also prevents further dependency upon potentially interruptible foreign sources since a foreign source, that is adjacent to our borders, may be made more secure than ones that depend upon ocean shipment of supplies.

There is additional benefit, heretofore unmentioned, that would come out of such a barter arrangement. Interestingly, Mexican crude oil, while similar in sulfur content to Alaskan crude, has a lower specific gravity. This, in turn, permits refiners to obtain a higher percentage of gasoline from each barrel of crude oil delivered. I need hardly remind anyone here of the significance of that fact in terms of the gas lines we have been experiencing lately.

The objection has been raised that adoption of this amendment would hurt our merchant marine. But this argument overlooks the fact that additional oil may be produced to offset, at least somewhat, the reduction in shipping distance and that this additional production might keep our ships busy. Furthermore, the fate of our merchant marine is only one of a number of factors that have to be considered here. Even if the critics are right, should that concern outweigh the incentives to production, the possible savings to consumers, and the prospect of improved relations with our neighbor to the south? I think not. A balance has to be struck and adoption of this amendment to waive the prohibition on Alaska oil exports would help strike it. I urge adoption of the amendment.

○ Mr. MOAKLEY. Mr. Chairman, I am opposed to the amendment offered by the gentleman from California.

We must maintain protection of our ever-decreasing domestic oil reserves for American consumption and resist efforts to allow exportation of Alaskan oil without careful examination of the costs and benefits.

The bill, as it is written now, does not prevent Alaskan crude from ever being exported, but it does seek to insure that if and when it becomes available for trade it will be to the benefit of the American consumer and not to just the oil-producing corporations.

It is our responsibility to retain a congressional voice in determining our export options, and the bill presently maintains that any oil exchange plan must be approved by both Houses of Congress and not be left up solely to the executive branch.

Let's look at who would benefit from an oil exchange. First, the price of Alaskan oil is already completely decontrolled. Since it is pegged to world prices of crude oil, OPEC increases result in price increases for Alaskan oil.

This has proved to be very profitable for the oil companies. According to an article in "Petroleum Intelligence Weekly" in June of this year, after-tax profits on Alaskan sales to the United States west and gulf coast markets have soared past $3 a barrel and could reach $4.10, which would be an 85-percent increase.

The incentive for the oil corporations in shipping this oil to Japan rather than the continental United States is that they will save about $2 per barrel in transportation costs, increasing their profits even more—not to mention that the tankers they use can be foreign-flag ships using foreign crews.

Second, Alaskan oil's heavier gravity makes it ideally suited for the production of home heating oil. At a time when we are trying to build up our heating oil stocks for the winter, especially for the oil-dependent New England region. I feel we should not ease the restrictions on its export.

How can we justify sending domestically produced oil to Japan or any country when the American people are still skeptical about the origins of our summer liquid fuel shortages? We are now at a time when our President, along with the Congress, is trying to renew confidence in Government and I believe that any exportation of domestic oil would seriously undermine our efforts.

I urge defeat of the amendment.○

□ 1300

Mr. BINGHAM. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. SEIBERLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4034) to provide for continuation of authority to regulate exports, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. CONABLE asked and was given permission to address the House for 1 minute.)

Mr. CONABLE. Mr. Speaker, I reserve this time for the purpose of inquiring of the distinguished majority leader about the schedule for next week.

Mr. WRIGHT. If the gentleman will yield, there are three things which, as an absolute minimum, we must attend to if we are to avail ourselves of the opportunity of the planned home district work period for the first part of October. Those three things are: The continuing appropriations, the public debt limitation, and the Panama Canal implementing legislation.

It seems obvious and beyond the necessity of any explanation that the House could not in good conscience abandon its duty and leave the public in the lurch with those needs unattended. Each of those bills has a very short fuse. They should be attended before the 1st of October, and that means next week.

Mr. Speaker, having said that, I will give to the gentleman and the Members the program as I see it from the vantage point of this far out.

On Monday we plan no votes at all, and recorded votes would be postponed until Tuesday. There is one District bill, the D.C. Retirement Reform Act. After that we would proceed to eight bills listed under suspension of the rules, proceed with H.R. 2795, International Travel Act authorizations, and H.R. 3642, emergency medical services reauthorizations, doing general debate only on those two bills. In each instance, they are open rules, with 1 hour of general debate authorized.

On Tuesday the House would meet at noon. There would follow the recorded votes on any suspensions and, if required, on the District bill, which would have been debated on Monday.

We plan then to proceed to the consideration of House Joint Resolution 404, Continuing Appropriations for Fiscal Year 1980, on which a rule already has been adopted.

Then we would take up H.R. 4034, Export Administration Act Amendments of 1979, and hope to complete consideration; then proceed to the consideration of H.R. 2795, International Travel Act authorizations, and H.R. 3642, emergency medical services reauthorizations, voting on the amendments and, we would hope, on the bills.

On Wednesday, Thurdsay, and Friday we would meet at 10 a.m. We would come to the second concurrent budget resolution, then to the Public Debt Limitation, following that with S. 832, FEC amendments; H.R. 5359, Defense appropriations, fiscal year 1980; H.R. 3000, DOE authorizations, 1980; H.R. 3180, DOE authorizations, 1979; H.R. 2859, Domestic Volunteer Service Act amendments; H.R. 2061, LEAA reauthorizations; and H.R. 3303, Justice Department authorizations, 1980.

We make clear, Mr. Speaker, that conference reports may be brought up at any time and, in that connection, I